



# Debtors Act 1869

## 1869 CHAPTER 62

### PART II

#### *Punishment of Fraudulent Debtors*

#### **11 Punishment of fraudulent debtors.**

Any person adjudged bankrupt, and any person whose affairs are liquidated by arrangement in pursuance of The Bankruptcy Act, 1869, shall, in each of the cases following, be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to be imprisoned for any time not exceeding two years, with or without hard labour ; that is to say,

1. If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the jury is satisfied that he had no intent to defraud:
2. If he does not deliver up to such trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud :
3. If he does not deliver up to such trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud :
4. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud:
5. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or

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commencement, he fraudulently removes any part of his property of the value of ten pounds or upwards :

6. If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to defraud:
7. If, knowing or believing that a false debt has been proved by any person under the bankruptcy or liquidation, he fail for the period of a month to inform such trustee as aforesaid thereof :
8. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law :
9. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of any ' book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
10. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
11. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering, or making any omission in any document affecting or relating to his property or affairs:
12. If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or at any meeting of his creditors within four months next before such presentation or commencement, he attempts to account for any part of his property by fictitious losses or expenses :
13. If within four months next before the presentation of a, bankruptcy petition against him or the commencement of the liquidation, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same:
14. If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless the jury is satisfied that he had no intent to defraud :
15. If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, being a trader, pawns, pledges, or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud :
16. If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy or liquidation.

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## **12 Penalty for absconding with property.**

If any person who is adjudged a bankrupt or has his affairs liquidated by arrangement after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months before such presentation or commencement, quits England and takes with him, or attempts or makes preparation for quitting England and for taking with him, any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors, he shall (unless the jury is satisfied that he had no intent to defraud) be guilty of felony, punishable with imprisonment for a time not exceeding two years, with or without hard labour.

## **13 Penalty on fraudulently obtaining credit, &c.**

Any person shall in each of the cases following be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to be imprisoned for any time not exceeding one year, with or without hard labour ; that is to say,

- (1) If in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud :
- (2) If he has, with intent to defraud his creditors, or any of them, made or caused to be made any gift, delivery, or transfer of or any charge on his property :
- (3) If he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

## **14 False claim, &c. a misdemeanor.**

If any creditor in any bankruptcy or liquidation by arrangement or composition with creditors in pursuance of The Bankruptcy Act, 1869, wilfully and with intent to defraud makes any false claim, or any proof, declaration, or statement of account which is untrue in any material particular, he shall be guilty of a misdemeanor, punishable with imprisonment not exceeding one year, with or without hard labour.

## **15 Debts incurred by-fraud.**

Where a debtor makes any arrangement or composition with his creditors under the provisions of The Bankruptcy Act, 1869, he shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

## **16 Order by court for prosecution on report of trustee.**

Where a trustee in any bankruptcy reports to any court exercising jurisdiction in bankruptcy that in his opinion a bankrupt has been guilty of any offence under this Act, or where the court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the bankrupt has been guilty of any offence under this Act, the court shall, if it appears to the court that

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there is a reasonable probability that the bankrupt may be convicted, order the trustee to prosecute the bankrupt for such offence.

**17 Expenses of prosecutions.**

Where the prosecution of the bankrupt under this Act is ordered by any court, then, on the production of the order of the court, the expenses of the prosecution shall be allowed, paid, and borne as expenses of prosecutions for felony are allowed, paid, and borne.

**18 Application of Vexatious Indictments Act to offences under this Act.**

Every misdemeanor under the Second Part of this Act shall be deemed to be an offence within and subject to the provisions of the Act of the session of the twenty-second and twenty-third years of the reign of Her present Majesty, chapter seventeen, intituled "An Act to prevent vexatious indictments for certain misdemeanors;" and when any person is charged with any such offence before any justice or justices, such justice or justices shall take into consideration any evidence adduced before him or them tending to show that the Act charged was not committed with a guilty intent.

**19 Form of indictment.**

In an indictment for an offence under this Act it shall be sufficient to set forth the substance of the offence charged, in the words of this Act specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant, or document of any court acting under The Bankruptcy Act, 1869.

**20 Quarter sessions to have jurisdiction in respect of offences under Act.**

So much of the Act of the session of the fifth and sixth years of Her Majesty's reign (chapter thirty-eight), "to define the jurisdiction of justices in general and quarter sessions of the peace," as excludes from the jurisdiction of justices and recorders at sessions of the peace or adjournments thereof the trial of persons for offences against any provision of the laws relating to bankrupts, is hereby repealed as from the passing of this Act; and any offence under this Act shall be deemed to be within the jurisdiction of such justices and recorders.

**21 Mayors, &c. disqualified by arrangements.**

The provisions of the Act of the session of the fifth and sixth years of William the Fourth, chapter seventy-six, for the regulation of municipal corporations, sections fifty-two and fifty-three, as to the disqualification of mayors, aldermen, and town councillors having been declared bankrupt or having compounded by deed with their creditors, shall extend to every arrangement or composition by a mayor, alderman, or town councillor with his creditors under The Bankruptcy Act, 1869, whether the same is made by deed or otherwise.

**22 Justices of the peace becoming bankrupt or arranging with creditors.**

If any person being assigned by Her Majesty's Commission to act as a justice of the peace is adjudged bankrupt, or makes any arrangement or composition with his

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creditors under The Bankruptcy Act, 1869, he shall be and remain incapable of acting as a justice of the peace until he has been newly assigned by Her Majesty in that behalf.

**23 Punishments under this Act cumulative.**

Where any person is liable under any other Act of Parliament or at common law to any punishment or penalty for any offence made punishable by this Act, such person may be proceeded against under such other Act of Parliament or at common law or under this Act, so that he be not punished twice for the same offence.