



**Bankruptcy (Amendment) Decree
No 109 of 1992
Laws of the Federation of Nigeria**

28th day of December 1992

The Federal Military Government hereby decrees as follows

1. The Bankruptcy Act (in this Decree referred to as "the principal Act") is hereby amended as set out in this Decree.
2. Section 1 of the principal Act is amended by inserting immediately after the existing paragraph (c) thereof the following new paragraphs, that is -
 - (d) if he suspends or gives notice that he is about to suspend payment of his debts to any of his creditors; or
 - (e) if under a credit agreement the creditor becomes entitled to file a bankruptcy petition; or
 - (f) if, in Nigeria or elsewhere, he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditor generally; or
 - (g) if, in Nigeria or elsewhere, he makes a fraudulent conveyance gift, delivery or transfer of his property or any part thereof, with an intent to defeat or delay the claim of his creditors; or
 - (h) if, in Nigeria or elsewhere, he makes any conveyance or transfer of his property or any part thereof; or created any charge thereon, which would under this or any other Act be void as a fraudulent preference if he were adjudged bankrupt; or
 - (i) if, with intent to defeat or delay the claims of his creditors, he departs out of Nigeria, or being out of Nigeria remains out of Nigeria, or departs from his dwelling, or otherwise absents himself, or begins to keep house.
3. Section 4 of the principal Act is amended by inserting immediately after the existing subsection (2) thereof a new subsection (3) as follow, that is -
 - (3) Notwithstanding the provisions of any other law or enactment and without prejudice to any other rights of the debtor, a creditor who is entitled to present a bankruptcy petition on or before the end of December, 1992 shall not be disentitled from presenting a petition by virtue only of the provisions of section 4(1) (c) of this Act if the petition is presented before the expiration of a period of six months.

4. Section 36 of the principal Act is amended in subsection (6) thereof by deleting all the words immediately after the words "separate debts." and substituting therefor the following new words, that is -

If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest each partner in the joint estate...

5. Section 45 of the principal Act is amended in subsection (1) thereof by substituting for the words "with the Registrar in a register to be kept by him for that purpose " the words "and in accordance with the provisions of the Bills of Sale Law."
6. Section 54 of the principal Act is amended in subsection (1) thereof by substituting for the words "President or as the case may be of the Governor" the words "heads of the relevant Armed Forces or as the case may be the Minister, Commissioner or Department Accounting Officer."
7. The existing section 72 of the principal Act is hereby deleted and a new section 72 substituted as follows, that is -

72. (1) The Minister shall, by an instrument published in the *Gazette* designate an officer of the Ministry as the Official Receiver.

(2) A person designated by virtue of sub-section (1) of this section shall be a qualified legal practitioner in Nigeria who shall have been so qualified for a period not less than ten years.

(3) The Minister may designate such number of officers of the Ministry who are qualified legal practitioners as he may determine as Deputy Official Receivers.

(4) Every Deputy Official Receiver shall act under the general authority and direction of the official Receiver for the time being, who shall in turn act under the general authority of the Minister.

8. Section 88 of the principal Act is hereby amended in subsection (2) thereof by substituting for the words "twenty *per cent* per annum the words " five *per cent* above inter bank lending rate..
9. Section 108 of the principal Act is hereby amended by substituting for the word "registered" the word "incorporated."
10. Section 140 of the principal Act is hereby amended by inserting immediately after subsection (3) thereof a new subsection (4) as follows, that is -

(4) The Official Receiver or any Deputy Official Receiver shall be competent to prosecute an offence under this Act..

11. This Decree may be cited as the Bankruptcy (Amendment) Decree 1992

Made at Abuja this 28th day of December 1992

General I.B. Babangida
President, Commander-in-Chief of the Armed Forces
Federal Republic of Nigeria