

Priority of debts

38. (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

- (a) all local rates due from the bankrupt and all taxes and other debts due from the bankrupt to the Crown at the date of the receiving order;
- (b) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during 4 months before the date of the receiving order, not exceeding \$240; and
- (c) all wages of any labourer or workman, not exceeding \$120 whether payable for time or piece work, in respect of services rendered to the bankrupt during 2 months before the date of the receiving order, but where any labourer in husbandry has entered into a contract for a payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or of a part thereof, as the Court may decide to be due under the contract proportionate to the time of service, up to the date of the receiving order.

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them.

(4) Subsections (1), (2) and (3) apply in the case of a deceased person who dies insolvent as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

(5) In the case of partners, the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. 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 of each partner in the joint estate.

(6) The amount realized by a plantation in cultivation shall be applicable in the first instance to the payment of all debts that are due to the Crown or the Government of Anguilla or which have a right of preference on such plantation, or the proceeds realized by the sale thereof, or which are secured by any mortgages on the plantation, or securities against crop duly registered in the order of priority of such debts, and thereafter to the payment rateably of all debts incurred for the maintenance, working, cultivation or carrying on of the plantation.

(7) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(8) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order, at the rate of 4% per annum on all debts proved in the bankruptcy.