

(Translation)

Unofficial Translation\*

## BANKRUPTCY ACT

B.E.2483

In the Name of KING ANANDA MAHIDOL, REX.

The Regency Council

(As per the Announcement of the Speaker of the House of Representatives,

Dated 4<sup>th</sup> August B.E. 2480;

Aditya Dibabha

General Bijayendr Yodhin

Enacted on the 30<sup>th</sup> Day of December B.E.2480

Being the 7<sup>th</sup> Year of the Present Reign

Whereas the House of Representatives has passed its resolution that it is expedient to revise the law on bankruptcy to keep abreast of the times.

Therefore, His Majesty the King Ananda Mahidol has graciously been pleased to enact this Act, with the advice and consent of the House of Representatives, as follows:

**Section 1** This Act shall be called the “Bankruptcy Act B.E. 2483”.

**Section 2**<sup>1</sup> This Act shall come into force as from 1<sup>st</sup> January B.E.2484 onwards.

The provisions of this Act shall apply to all bankruptcy cases brought to the Courts as from the date of entry into force of this Act, irrespective of the occurrence of causes of action prior or subsequent thereto, and to all bankruptcy cases pending in the Courts or at the Receiver.

**Section 3** This Act shall apply to areas of Bangkok, Thonburi Province, Samut Prakarn Province and Nonthaburi Province, and when it is deemed expedient, to areas of any other provinces and at any time as shall be announced by the Royal Decree.

**Section 4** As from the date of entry into force of this Act, the Bankruptcy Act R.E.130, the Bankruptcy Act (Amendment) B.E.2470, the Bankruptcy Act (Amendment) B.E.2474 and all laws, rules and regulations as already provided in this Act or inconsistent with the provisions of this Act, shall be repealed.

---

<sup>1</sup> The Government Gazette, Volume 57, Page 958 dated 30<sup>th</sup> December 1940

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 5** The Minister of Justice shall take charge under this Act and shall have powers to appoint and remove competent officials, to issue Ministerial Regulations and to prescribe rules and regulations in connection with general affairs for the execution of this Act.

Upon their publication in the Government Gazette, such Ministerial Regulations shall come into force.

**Section 6** Unless otherwise indicated by the context, in this Act:

“Minister” means the Minister taking charge under this Act;

“Receiver” shall include the person designated by the Receiver to act on his behalf;

“Executing Officer” means the executing officer under Civil Procedure Code;

“Secured Creditor” means the creditor who has rights over the debtor’s property by virtue of mortgage, pledge or right of retention, or the creditor who has preferential rights enforceable in the same manner to those of the pledgee;

“Bankruptcy Proceedings” means proceeding provided in this Act, whether pursued before the Court or with the Receiver as from the institution of an action until the finality thereof;

“Judgment” shall include the adjudication of the case by the Court by way of an order;

“Receivership” means absolute or temporary receivership;

“Resolution” means a resolution of the creditors holding rights over the majority of debts and attending the meeting of creditors in person or by proxy, and casting votes on such resolution;

“Special Resolution” means a resolution of the majority creditors holding rights over the debts equivalent to three-fourth of the total amount of debts owed to the creditors attending the meeting of creditors in person or by proxy, and casting votes on such resolution;

“Debtor’s Insider”<sup>2</sup> means:

(1) A director, manager, managing partner, partner with unlimited liability, person responsible for business operation or the auditor of the debtor;

(2) A shareholder holding shares exceeding to five percent of the listed shares of the debtor’s undertaking;

(3)<sup>3</sup> The spouse or non *sui juris* child of the debtor or of the person under (1) or (2);

(4) An ordinary partnership of which debtor or the person under (1) or (2) or (3) is a partner;

(5) A limited partnership of which debtor or the person under (1) or (2) or (3) is a partner with unlimited liability, or a partner with limited liability and with the aggregate shares held in excess of thirty percent of the total number of shares of the limited partnership;

---

<sup>2</sup> Section 6 Definition of “Debtor’s Insider” has been added by the Bankruptcy Act (No.5) B.E.2542.

<sup>3</sup> Section 6 Definition of “Debtor’s Insider” (3) has been amended by the Bankruptcy Act (No.7) B.E.2547.

(6) A limited company or a public limited company that the debtor or the person under (1) or (2) or (3) or the partnership under (4) or (5) held the aggregate shares in excess of thirty percent of the total number of the listed shares of such company;

(7) A limited company or a public limited company that the debtor or the person under (1) to (6) held the aggregate shares in excess of thirty percent of the total number of the listed shares of such company;

(8) A director, manager, managing partner, partner with unlimited liability, person responsible for business operation or the auditor of an ordinary partnership, a limited partnership, a limited company or a public limited company under (4) or (5) or (6) or (7), as the case may be, or the spouse or non *sui juris* child of such person;

“Dishonest Bankrupt” means a bankrupt convicted by the Court for the offence under Section 163 to Section 170 of this Act or adjudged bankrupt on account of or in connection with the commission of an offence of misappropriation or cheating under the Criminal Code or the commission of an offence in the manner of borrowing of money constituting a public fraud under the law on borrowing of money constituting a public fraud.

## CHAPTER 1

### PROCEEDINGS FROM A BANKRUPTCY PETITION TO A DISCHARGE FROM BANKRUPTCY

#### PART 1

##### BANKRUPTCY PETITION AND ISSUING OF A RECEIVERSHIP ORDER

**Section 7** An insolvent debtor may be adjudged bankrupt if such debtor has been domiciled in the Kingdom or has operated business in the Kingdom in person or by representative, at the time when the bankruptcy petition is lodged against the debtor, or within a period of one year prior thereto.

**Section 8** In case, any of the following circumstances occurs, it shall be presumed that the debtor is insolvent:

(1) The debtor has transferred his property or the rights of his property management to other people for the benefits of all of his creditors, either within or outside the Kingdom;

(2) The debtor has transferred or handed over his property with fictitious intent or by fraud, either within or outside the Kingdom;

(3) The debtor has transferred his property or created any proprietary interest over such property; and in case, the debtor is bankrupt, it shall be regarded as favorable, either within or outside the Kingdom;

---

<sup>4</sup> Section 6 Definition of “Dishonest Bankrupt” has been amended by the Bankruptcy Act (No.7) B.E.2547.

(4) The debtor has taken any of the following actions for the purpose of delaying payment or preventing a creditor from receiving payment of debts;

a. Leaving the Kingdom or having left the Kingdom and staying outside the Kingdom;

b. Leaving the dwelling place where he resided or hiding himself in a dwelling place or absconding by other means or closing his business premises;

c. Diverting the property out of the jurisdiction of the Court;

d. Allowing himself to be subject to a judgment demanding payment which should not be made by him;

(5) The debtor is subject to the seizure of property under a writ of execution or having no property susceptible of seizure for debt payment;

(6) The debtor has made a declaration of his insolvency to the Court in any action;

(7) The debtor has notified any of the creditors of his insolvency;

(8) The debtor has submitted a proposal for composition to at least two creditors;

(9) The debtor has received a demand letter from his creditors at least twice with an interval of not less than thirty days; and the debtor has failed to settle the debt payment;

**Section 9**<sup>5</sup> The creditor may institute a bankruptcy action against the debtor only when:

(1) The debtor has become insolvent;

(2)<sup>6</sup> The debtor who is a natural person is indebted to one or several plaintiff creditors in an amount of not less than one million Baht, or the debtor who is a juristic person is indebted to one or several plaintiff creditors in an amount of not less than two million Baht; and

(3) The definite amount of debt may be fixed, regardless of immediate or future due date of payment;

**Section 10**<sup>7</sup> Subject to Section 9, a secured creditor may institute a bankruptcy action against the debtor only when:

(1) The secured creditor is not a person prohibited from compulsory performance against the debtor's property in excess of the value of the real security; and

(2)<sup>8</sup> The secured creditor has made a statement in the plaint that he shall, upon bankruptcy of the debtor, renounce the security for the benefit of all creditors, or appraise the security in the plaint and, after deduction of the amount of debts therefrom, the deficit amounted to not less than one million Baht, in case, the debtor is a natural person, or amounted to not less than two million Baht, in case, the debtor is a juristic person;

---

<sup>5</sup> Section 9 has been amended by the Bankruptcy Act (No.3) B.E.2526.

<sup>6</sup> Section 9 (2) has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>7</sup> Section 10 has been amended by the Bankruptcy Act (No.3) B.E.2526.

<sup>8</sup> Section 10 (2) has been amended by the Bankruptcy Act (No.5) B.E.2542.

**Section 11**<sup>9</sup> The plaintiff creditor shall deposit money with the Court as security for expenses amounted to five thousand Baht at the time of submission of a plaint in a bankruptcy case and shall not withdraw such plaint unless permitted by the Court.

The Court has its powers to demand the plaintiff creditor to deposit additional money as security for expenses as it deems expedient.

**Section 12** In case, there are several plaints brought against the same debtor for bankruptcy or against each of the joint debtors for bankruptcy, the Court shall have its powers to order for consolidation of plaints in the same trial.

**Section 13** Upon acceptance of a bankruptcy action, the Court shall urgently fix the date of hearing and shall issue a summons and shall send a copy of the plaint to the debtor for acknowledgment at least seven days prior to the date of hearing.

**Section 14** At trial of a bankruptcy case as per the creditor's plaint, the Court shall consider the matters of facts as provided in Section 9 or Section 10. In case, the Court has already considered and obtained the matters of facts, the Court shall, then, issue an order of absolute receivership; however, in case, the Court failed to obtain the matters of facts, or the debtor has adduced evidences that it may be able to fully settle debt payments, or there is another reason that the debtor should not become a bankrupt, then, the Court shall dismiss the case.

**Section 15** As long as the debtor is not yet placed under absolute receivership, any creditor may institute a new bankruptcy action against such debtor; but when the Court has issued an order of absolute receivership against the debtor in any case, the bankruptcy actions instituted by other creditors against the same debtor shall be struck out.

**Section 16** Upon acceptance of a bankruptcy action by the Court, in case, the plaintiff creditor has submitted an *ex parte* application by motion, and has adduced evidences that the debtor has taken any of the following actions:

- a. Leaving or about to leave or having left the jurisdiction of the Court, and still staying outside the jurisdiction of the Court, with the intention to prevent or delay the debt payments to the creditor;
- b. Concealing, hiding, transferring, selling, disposing of or diverting (or being about to take such action against) property, seals, account books or documents for the benefit of all creditors in entry of bankruptcy actions out of the jurisdiction of the Court; or
- c. Committing or being about to commit fraud against creditors, or committing or being about to commit any offence which shall be punished under this Act;

The Court has its powers to issue an order to any of the following effects:

- (1) Instructing the Receiver to enter a dwelling place or a workplace of the debtor from sunrise to sunset for the purpose of examining property, seals, account books or documents of the debtor and inquiring the debtor or issuing a summons for inquiry of the debtor;

---

<sup>9</sup> Section 11 has been amended by the Bankruptcy Act (No.5) B.E.2542.

(2) Instructing the debtor to give security to the satisfaction of the Court that the debtor shall not abscond from the jurisdiction of the Court and shall appear before the Court whenever ordered so by the Court. In case, the debtor fails to give security, the Court shall have its powers to issue an order for detention of the debtor for a period of not exceeding one month at each time, but not exceeding six months in total;

(3) Issuing a warrant of arrest for detention of the debtor until the Court shall adjudge the debtor bankrupt or until the Court shall dismiss the case or until the debtor shall give security to the satisfaction of the Court;

**Section 17** Before the Court shall issue an order of absolute receivership against the debtor, the plaintiff creditor may submit an *ex parte* application by motion for temporary receivership against the debtor. Upon receipt of this motion, the Court shall forthwith proceed with an inquiry. In case, the Court considers that it is a *prima facie* case, then, the Court shall issue an order of temporary receivership against the debtor, but before issuing such order, the Court may demand the plaintiff creditor to give security against loss of the debtor in such an amount as it may deem expedient.

**Section 18** In case, there is a reasonable cause to amend the order under Section 16 or Section 17 as agreed by the Court or upon application by the debtor, the Court shall have its powers to withdraw such order or to issue an order otherwise as it may deem expedient.

**Section 19** An order of receivership shall be regarded as a warrant of the Court instructing the Receiver to seize seals, account books and documents of the debtor and all property in the possession of the debtor or other persons which may be divided in a bankruptcy case.

Regarding the seizure of property, the Receiver has the power to enter any premises owned or possessed by the debtor and to demolish upon entry into such premises and to open any safe deposit box, cabinets or other storage places as may be necessary.

Property seized under this Section shall not be sold until the Court shall adjudge the debtor bankrupt, except for any perishable items, or in case of delay of selling of such seized property, it shall be risky to cause damage or to incur expenses exceeding to the value of such seized property.

**Section 20** When the Court considers that there is a reasonable cause to believe that any property of the debtor is hidden in a building, dwelling place or other premises not belonging to the debtor, the Court has its powers to issue a warrant of search to the Receiver or to other Court officials and to take actions as per statements contained in such warrant.

**Section 21**<sup>10</sup> In case, the Receiver has submitted an application, the Court has its powers to order any agency or operator relating to postal, telegraphic or any communication services to send the Receiver telegraphs, parcels, letters, documents, electronic data, or any other communication data addressed to the debtor within the period of not exceeding six months as from the date when the debtor is issued with the receivership order.

---

<sup>10</sup> Section 21 has been amended by the Bankruptcy Act (No.7) B.E.2547.

**Section 22** When the Court has issued an order of receivership against the debtor, only the Receiver shall have the powers, as follows:

- (1) To manage and dispose of the debtor's property or to take any necessary action for accomplishment of the pending business of the debtor;
- (2) To collect and receive money or property which shall be devolved to the debtor or which the debtor shall be entitled to receive from others;
- (3) To enter into a compromise or to institute any action or to put up a defence relating to the debtor's property;

**Section 23** Upon having acknowledged the receivership order, the debtor shall hand over all property, seals, account books and documents relating to his property and business, which are in his possession, to the Receiver.

**Section 24** Upon the issuing of the Court's receivership order against the debtor, the debtor shall be prohibited to take any action relating to his property or business, except for actions in accordance with orders or approvals of the Court, the Receiver, the property administrator, or the meeting of creditors as provided in this Act.

**Section 25** The Receiver shall conduct all civil cases relating to the debtor's property pending in the Court at the time of issuing of the receivership order; and when the Receiver has submitted an application by motion, the Court shall have its powers to issue an order of stay of trial of such civil cases or to issue any order as it may deem expedient.

**Section 26** As long as the Court has not yet issued an order of absolute receivership against the debtor, a creditor may institute a civil action relating to the debts which the creditor may claim for payment under this Act. In such case, the provisions of the foregoing section shall apply *mutatis mutandis*.

**Section 27** Upon the issuing of the Court's absolute receivership order against the debtor, a creditor may request for receiving the debt payment in accordance with the methods provided in this Act, irrespective of a judgment creditor or a creditor having instituted a civil case which is pending in the Court.

**Section 28** Upon the issuing of the Court's receivership order against the debtor, the Receiver shall public such order in the Government Gazette and in at least one daily newspaper. In such application, the petition for bankruptcy, the date of issuing of the Court's order, name, address and occupation of the debtor shall be specified.

In the publication of an order of absolute receivership, the time limit for all creditors to submit applications for receiving the debt payment shall also be notified to the Receiver.

**Section 29** In case, it appears afterwards that a creditor has frivolously requested the Court to exercise such power as provided in Section 16 or Section 17, when the debtor has submitted an application by motion, the Court shall have its powers to demand the creditor to indemnify reasonable damages to the debtor. In such case, in case, the creditor has failed to comply with the Court's order, the Court shall have its powers to treat such creditor as though the creditor were a judgment debtor.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

## PART 2

### EXPLANATIONS ON BUSINESS AND PROPERTY OF THE DEBTOR

---

**Section 30** Upon the issuing of the Court's absolute receivership order against the debtor, the debtor shall take actions, as follows:

(1) Within twenty-four hours as from the time when the debtor has been informed of such order, the debtor shall report upon oath to the Receiver and shall submit explanations as per the printed form whether the debtor has entered into partnership with any person, and if any, the debtor shall specify names and addresses of partnerships and all partners therein;

(2) Within seven days as from the date when the debtor has been informed of such order, the debtor shall report upon oath to the Receiver and shall submit explanations, as per the printed form, relating to the business and property of the debtor, with the cause of insolvency, assets and liabilities, name, addresses and occupations of creditors, property given to creditors as security and the date when such property has been given as security, details of the property which shall be devolved to the debtor in the future, property of the spouse, as well as property of other people in the debtor's possession;

When there is a special reason, the Receiver may extend a reasonable period of time under this Section.

In case, the debtor is absent or unable to prepare explanations under this Section, the Receiver shall do so on behalf of the debtor, or shall assist the debtor in preparing explanations, as the case may be, and for this purpose, the Receiver shall have its powers to hire a third party to give necessary assistance; provided that expenses incurred shall be deducted from the debtor's estates.

## PART 3

### MEETING OF THE CREDITORS

---

**Section 31** Upon the issuing of the Court's absolute receivership order against the debtor, the Receiver shall summon a meeting of creditors as soon as possible in order to discuss whether to accept the debtor's application for compromise or to request the Court to adjudge the debtor a bankrupt, and to discuss on how to manage the debtor's property in the future. This meeting shall be called "The First Meeting of Creditors".

The Receiver shall publish the date, time and venue of the first meeting of creditors in at least one daily newspaper for not less than seven days in advance, and shall also give a notice thereof to all known creditors.

**Section 32** The Receiver may summon any subsequent meeting of creditor at such time as it is deemed expedient or as provided by laws or as ordered by the Court or when creditors owning the aggregate amount of debt of not less than one-fourth of the total amount of debt and having submitted a written application for receiving debt payment, have summoned a meeting.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The Receiver shall give a prior notice of not less than three days to creditors who have submitted an application for receiving the debt payment relating to the date, time, venue and agenda of the meeting; and in case, the time limit for submission of an application for receiving the debt payment by the creditors has not yet been elapsed, the Receiver shall notify creditors who have not yet submitted an application for receiving the debt payment but whose names are included in the list prepared and furnished by the debtor or included in other evidences.

**Section 33** The Receiver shall preside over every meeting of creditors; and minutes of the meeting shall be provided and signed by the Receiver as evidence.

**Section 34** Creditors who are entitled to vote in a meeting of creditors shall be those who are eligible to receive the debt payment and having submitted applications for receiving the debt payment prior to the date of such meeting.

Creditors may cast their votes in person or by proxies.

Creditors or their proxies may not cast their votes on any matter which enables such creditors or their proxies or partners of such creditors or their proxies to receive any direct or indirect benefits from the debtor's property, except for those that should be given proportionately in the capacity of creditors similar to other creditors.

**Section 35**<sup>11</sup> Regarding the counting of votes cast in each meeting of creditors, the Receiver shall ask creditors attending the meeting whether any of them shall object the voting of any creditor who has not yet been permitted by the Receiver's order to receive the debt payment; in case, there is no objection thereto, the vote cast by such creditor shall also be counted.

In case, any application for receiving the debt payment is objected, the Receiver shall order whether and to what extent the voting is allowed for any amount of debt. In case, the Receiver considers that such order may not be issued at that time, the Receiver shall give remarks of such impediment and shall allow the creditor to cast the vote for the time being; provided that, in case, the Receiver shall thereafter issue an order not to cast the votes to any extent, the voting of such creditor shall be deemed as invalid pro tanto.

The order of the Receiver under Paragraph 2 may be objected to the Court within fourteen days as from the date of issuing of such order.

**Section 36** When the Receiver considers that a resolution of a meeting of creditors is contrary to the laws or common interests of all creditors, the Receiver may submit an application by motion to the Court, and the Court may issue an order prohibiting the operation in accordance with such resolution; provided that such application shall be submitted to the Court within seven days as from the date on which the meeting of creditors has passed the resolution.

## PART 4

### COMMITTEE OF THE CREDITORS

---

<sup>11</sup> Section 35 has been amended by the Bankruptcy Act (No.8) B.E.2558.

**Section 37** The meeting of creditors may pass its resolution to appoint a committee of creditors for the purpose of representing all creditors in business relating to the management of property of the debtor as provided in this Act.

The committee of the creditors shall be comprised of members of three to seven persons to be elected from creditors or their proxies; provided that such creditors or their proxies may act as members of the committee of the creditors only when the Receiver has issued an order to approve such creditors' application for receiving the debt payment.

**Section 38** A resolution of the committee of creditors shall be passed by the majority votes of members attending the meeting; and at least half of the total number of members of the committee of creditors shall attend the meeting to constitute a quorum.

**Section 39** A member of the committee of creditors shall vacate the office on any of the following grounds:

- (1) Resignation by sending a written notice to the Receiver;
- (2) Being adjudged bankrupt or incompetent or quasi-incompetent person by the Court's order;
- (3) Being removed from office by the meeting of creditors; provided that a prior notice of not less than seven days relating to the meeting to be held for such removal from office shall be given to all creditors;

Upon vacancy of the office of any member of the committee of creditor on any of such grounds, the Receiver shall summon a meeting of the committee of creditor without delay for the purpose of electing a person to fill the vacancy.

**Section 40** During the time when a replacement member of the committee of creditors has not yet been elected as per the provisions contained in the foregoing section, in case, the number of remaining members of the committee of creditors is less than half of the total number of members of the committee of creditors, such members of the committee of creditors may continue performing their duties.

**Section 41** In case, no committee of creditors is appointed, any action as provided by this Act to be taken with prior approval from the committee of creditors shall be proposed by the Receiver to the meeting of creditors, for approval.

## PART 5 PUBLIC EXAMINATION

---

**Section 42** Upon completion of the first meeting of creditors, the Court shall urgently and openly conduct a public examination of the debtor for the purpose of knowing the business and property of the debtor, the reason of insolvency, as well as the debtor's conduct, including commission or omission of any action constituting an offence under this Act or any other laws relating to bankruptcy or regarded as shortcomings and a ground for the Court's refusal to grant unconditional discharge from bankruptcy.

---

<sup>12</sup> Section 37 Paragraph 2 has been amended by the Bankruptcy Act (No.8) B.E.2558.

The Receiver shall send a prior notice of at least seven days to the debtor and creditors regarding the date and time of the scheduled public examination and shall publish the same in at least one daily newspaper.

**Section 43** In the public examination, the debtor shall report upon oath and answer questions regarding matters mentioned in Section 42 Paragraph 1 that the Court has permitted the Receiver and creditors who have submitted an application for receiving the debt payment or the persons authorized by such creditors to ask or the Court itself may ask as it is deemed expedient; and the Court shall take down the debtor's statements and shall read them through to the debtor, then, the debtor shall affix the signature for acknowledgment, and such statements may be adduced as evidence against the debtor. For this purpose, the debtor may not be represented by his lawyer.

When the Court has conducted sufficient examination of the debtor, the Court shall issue an order for closing of the examination and for sending one copy of the examination report to the Receiver. This order shall not curtail the Court's power to order an additional examination of the debtor when there is a reasonable cause to do so.

**Section 44** When it is apparent that the debtor has become insane or having physical or mental infirmity to the extent that the Court has considered that the Court may not be able to conduct the public examination of the debtor; therefore, the Court shall have its powers to issue an order for cancellation of the public examination or for conducting inquiries by any other methods at any place as it is deemed expedient.

## PART 6

### PRE-BANKRUPTCY COMPOSITION

**Section 45**<sup>13</sup> When the debtor wishes to make an agreement on indebtedness by means of partial payment or by any other methods, the debtor shall prepare a written proposal for composition and shall submit it to the Receiver within seven days as from the date of submission of explanations on business and property under Section 30 or within such time limit as fixed by the Receiver.

An application for composition shall specify statements of the composition or the method of management of business or property and details of security or guarantors, if any, and shall contain at least the following details:

- (1) Order of debt payment under this Act;
- (2) Amount of money requested for composition;
- (3) Guidelines and method of compliance with the application for composition;
- (4) Scheduled time of debt payment;
- (5) Management of the property used as security (if any);
- (6) Guarantors (if any);

In case, the application for composition contains incomplete or obscure particulars under Paragraph 2, the Receiver shall notify the debtor to make correction for completeness and clarity thereof.

---

<sup>13</sup> Section 45 has been amended by the Bankruptcy Act (No.8) B.E.2558.

The Receiver shall summon a meeting of creditor to discuss and pass a special resolution whether to accept such application for composition or not.

**Section 46** The acceptance of an application for composition by a special resolution of a meeting of creditors shall not be binding all creditors until the Court shall issue an order of approval thereof.

**Section 47** The debtor may request for amendment of the application for composition at the meeting of creditors or during the trial by the Court if the Receiver or the Court considers that such amendment shall be beneficial to the creditors in general.

**Section 48** At a meeting of creditors for consideration of the application for composition, a creditor who is not present at the meeting may cast the vote in writing; provided that the Receiver shall have received such letter before the date of the meeting. In such case, it shall be regarded that such creditor has attended the meeting and cast the vote in person.

**Section 49** When the creditors have passed a special resolution accepting the debtor's application for composition, the debtor or the Receiver is entitled to apply to the Court for an order approving or disapproving it.

In fixing the date of hearing this proposal, the Receiver shall be given such time as to give a notice thereof to the debtor and all creditors not less than seven days in advance.

**Section 50** The Receiver shall submit to the Court a report on the composition and the debtor's business, property and conduct not less than three days prior to the date of the hearing.

**Section 51** The Court shall not consider the application for composition until a public examination of the debtor has been conducted except that, in case of joint debtors' application for composition, even though the Court has not yet conducted a public examination of all debtors by reason that some of the debtors are unable to appear before the Court due to illness or presence outside the Kingdom, the Court, if it is reported by the Receiver that a public examination of such debtors is not necessary, has the power to consider the application for composition, provided that a public examination of at least one debtor has been conducted.

**Section 52** In giving an order approving or disapproving a composition, the Court shall consider the Receiver's report and the creditors' objections, if any.

The creditor who has submitted an application for receiving the debt payment is entitled to raise an objection to the Court even though the creditor has, at the meeting of creditors, cast a vote accepting the composition.

**Section 53** The Court shall not issue an order approving a composition in the following cases:

(1) The composition contains no statement for the payment of debts in accordance with the order provided by the law in relation to the division of property of the bankrupt;

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

(2) The composition is not beneficial to creditors in general or causes advantages or disadvantages among creditors or there appears any of such facts as to, if the debtor is to be adjudged bankrupt, provide no ground for a discharge of the debtor from bankruptcy at all.

**Section 54** If there appears any fact which, if the debtor becomes bankrupt, may allow only a conditional discharge of the debtor from bankruptcy, the Court may issue an order approving a composition when the debtor gives security for debt payment in the amount of not less than one quarter of the unsecured debts for which the creditors may apply for repayment.

In other cases, the Court may issue an order approving or disapproving a composition as it deems appropriate.

**Section 55** Upon the Court's order approving a composition, the Receiver shall publish it in the Government Gazette and in at least one daily newspaper within seven days as from the date of the Court's order approving it.

**Section 56** The composition accepted by the meeting of creditors and approved by the Court binds all creditors with regard to the debts for which applications for repayment thereof are permissible but does not bind any creditor with regard to the debts from which the debtor may not, in accordance with this Act, be discharged by an order of discharge from bankruptcy, unless such creditor has consented to the composition.

**Section 57** Any creditor or the Receiver is entitled to apply to the Court for demanding the debtor's or the surety's compulsory performance of the terms of the composition.

**Section 58** In the composition, if the manager of the debtor's property or business has been appointed for the purpose of payment of debts, the provisions of Chapter 4 relating to Procedures for Management of Property of the Debtor and Chapter 5 relating to the Receiver shall apply mutatis mutandis.

**Section 59** A composition has no effect of discharging from liability persons who are the debtor's partners or bear joint liability together with the debtor or stand surety for or are in the same position as the surety for the debtor.

**Section 60** If the debtor defaults on payment of the debts as agreed upon in the composition or it is, upon evidence, apparent to the Court that the composition may not be conducted without injustice or will involve unreasonable delay or that the Court has issued an order approving it in consequence of deceit or dishonesty, the Court has the power to, upon the Receiver's report or any creditor's application by motion, terminate the composition and adjudge the debtor bankrupt, without prejudice to any act previously done in pursuit of the terms of such composition.

When the Court has rendered judgment hitherto indicated in the foregoing paragraph, the Receiver shall publish the judgment in the Government Gazette and in at least one daily newspaper. The publication shall indicate the name, address and occupation of the debtor and the date of the judgment and shall also indicate the time within which creditors may submit to the

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

Receiver applications for receipt of debt payment created by the debtor from the date of the Court's order approving the composition up to the date on which the debtor is adjudged bankrupt.

## PART 7 ADJUDICATION OF BANKRUPTCY

---

**Section 61** When the Court has issued an absolute receivership order against the debtor and the Receiver has reported that the creditors, at the first meeting of creditors or at the adjourned meeting, passed a resolution requesting the Court to adjudge the debtor bankrupt or passed no resolution or that no creditors attended the meeting or that the composition failed to be approved, the Court shall adjudge the debtor bankrupt and the Receiver shall thence have the power to manage the bankrupt's property for division among all creditors.

The Receiver shall publish the adjudication in the Government Gazette and in at least one daily newspaper. The publication shall indicate the name, address and occupation of the debtor as well as the date of the adjudication by the Court.

**Section 62** The bankruptcy of the debtor takes effect as from the date of the Court's receivership order.

## PART 8 POST-BANKRUPTCY COMPOSITION

---

**Section 63** Upon the adjudication of bankruptcy, the debtor may propose a composition. In such case, the provisions of Part 6 relating to Pre-Bankruptcy Composition shall apply mutatis mutandis. But, if the debtor's previous proposal for a composition failed to achieve a successful result, the debtor shall not propose a composition within the period of three months as from the date on which the last composition failed to achieve a successful result.

If the Court approves the composition, the Court has the power to issue an order cancelling the bankruptcy and restoring the debtor's power to manage his property or may issue any other order as it deems appropriate.

## PART 9 CUSTODY AND PROPERTY OF THE DEBTOR AND LIMITATION OF RIGHTS

---

**Section 64** The debtor who is under receivership shall attend every meeting of creditors and answer questions posed by the Receiver, members of the committee of creditors or any creditor in matters in connection with the debtor's business, property or partners and shall perform such act in connection with the business, property or division of property among all creditors as reasonably ordered by the Receiver or the manager of property or as provided in this Act or as ordered by the Court, as the case may be.

**Section 65** Upon the adjudication of bankruptcy, the debtor shall, to the best of his ability, assist in the disposal and division of property among all creditors and, when required by the

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

Receiver to make a contract of insurance on life, shall allow a physical examination to be performed by a doctor on the debtor and answer questions and do such act as is necessary for that purpose.

**Section 66** Upon the adjudication of bankruptcy, if it is reported by the Receiver that, or any creditor makes an ex parte application by motion and the Court is satisfied from the Receiver's report or the evidence adduced by the creditor that, the debtor has done any of the following acts:

(1) Leaving, being about to leave or having left the territorial jurisdiction of the Court and remaining outside the territorial jurisdiction of the Court with the intent to prevent, delay or cause impediment to the bankruptcy proceedings; or

(2) Committing or being about to commit fraud against creditors or committing or being about to commit any offence carrying penalty under this Act;

Then, the Court has the power to issue a warrant of arrest against the debtor for his detention until the debtor gives security to the satisfaction of the Court, provided that the period of the detention shall not be in excess of six months.

**Section 67** When the Court has issued a receivership order against the debtor or has adjudged the debtor bankruptcy and has not issued an order discharging the debtor from bankruptcy, then:

(1) The debtor shall request the Receiver to fix an amount of money as his own and his family's living expenses as may be suitable to the condition in life, provided that such amount of money shall, upon permission granted by the Receiver to the debtor, be payable out of the money acquired by the debtor during the bankruptcy and the debtor shall remit all the remaining money or property to the Receiver within such time as fixed by the Receiver together with the revenue and expenses account;

(2) The debtor shall, whenever he is entitled to any property, report it in writing to the Receiver within a reasonable time, with an indication therein of such details as may be most feasibly given; provided that in any case whatsoever, the debtor shall declare the income and expense account to the Receiver in every six months; and

(3) The debtor shall not leave the Kingdom unless upon written permission by the Court or the Receiver and shall, in case of any change of his address, notify the Receiver in writing of the new address within a reasonable time.

**Section 67/1**<sup>14</sup> Upon the adjudication of bankruptcy, the bankrupt may be discharged from bankruptcy when the Court issues an order of discharge from bankruptcy under Section 71 or at the expiration of the period of time under Section 81/1.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**PART 10**  
**DISCHARGE FROM BANKRUPTCY**

**Section 68**<sup>15</sup> Upon the adjudication of bankruptcy, the bankrupt may file an application by motion to the Court for an order of discharge from bankruptcy provided that a deposit of money shall be made with the Receiver in such an amount, not in excess of five thousand Baht, as the Receiver deems appropriate as security for fees and expenses.<sup>16</sup>

In fixing the date of hearing this application, the Receiver shall be given such time as to give a notice thereof to the bankrupt and all creditors not less than fourteen days in advance and publish the same in at least one daily newspaper.

**Section 69** The Receiver shall submit to the Court a report on the business, property and conduct of the bankrupt prior to or during the bankruptcy and furnish a copy of such report to the bankruptcy not less than seven days before the date of hearing the application for discharge from bankruptcy.

**Section 70** In considering the application for a discharge from bankruptcy, the may hear explanations of the Receiver, creditors or creditors' representatives, the Receiver's report submitted under Section 69 and the record of the public examination as conducted by that Court and the Court may require the bankrupt to testify under oath or consider evidence as the Court deems appropriate.

**Section 71**<sup>17</sup> The Court shall issue an order of discharge from bankruptcy when it considers that:

- (1) Not less than fifty percent of the property has been divided among the creditors who have submitted applications for receipt of debt payment; and
- (2) The debtor is not a dishonest bankrupt;

In giving the order of discharge from bankruptcy under paragraph one, the Court may fix conditions concerning property to be acquired at a future time provided that such conditions shall not be beyond the period of time for the a discharge of such person from bankruptcy under Section 81/1.

**Section 72**<sup>18</sup> (Repealed)

---

<sup>14</sup> Section 67/1 has been added by the Bankruptcy Act (No.7) B.E.2547.

<sup>15</sup> Section 68 has been amended by the Bankruptcy Act (No.2) B.E.2511.

<sup>16</sup> Section 68 Paragraph 1 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>17</sup> Section 71 has been amended by the Bankruptcy Act (No.7) B.E.2547.

**Section 73**<sup>19</sup> (Repealed)

**Section 74**<sup>20</sup> (Repealed)

**Section 75**<sup>21</sup> (Repealed)

**Section 76** Upon the Court's order of discharge from bankruptcy, the Receiver shall publish it in the Government Gazette and in at least one daily newspaper.

**Section 77** The order of discharge from bankruptcy has the effect of discharging the bankrupt from all debts of which applications for repayment are permissible, except:

- (1) Debts in relation to taxes, duties or goods taxes levied by the Government or a municipality;
- (2) Debts arising from dishonesty or fraud of the bankrupt or debts for which the creditors' failure to make a claim is attributable to dishonesty or fraud in which the bankrupt has involvement or conspiracy.

**Section 78** The Court's order of discharge from bankruptcy has no effect of discharging from liability persons who are the bankrupt's partners or bear joint liability together with the bankrupt or stand surety for or are in the same position as the surety for the bankrupt.

**Section 79** The bankrupt discharged from bankruptcy remains obligated to provide assistance in the disposal and division of his property in the custody of the Receiver, as the Receiver may require.

If the bankrupt fails to provide assistance, the Court has the power to revoke the order of discharge from bankruptcy without having prejudice to any act done subsequent to the discharge from bankruptcy and prior to such revocation order.

**Section 80** In the order of discharge from bankruptcy on the requirement of payment of money by the bankrupt to the Receiver, the Court has the power to fix, as the annual living expenses of the bankrupt and his family, the amount of money deductible from property acquired subsequent to such order and require remittance of the remaining money or property to the Receiver for division among all creditors and fix the date for submission of the account indicating property acquired during each year to the Receiver.

The bankrupt who is discharged from bankruptcy on the requirement of payment of money to the Receiver is under the obligation to appear before the Receiver or the Court for the purpose of an inquiry or examination in connection with the acquired property, as required by the Receiver or the Court.

---

<sup>18</sup> Section 72 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

<sup>19</sup> Section 73 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

<sup>20</sup> Section 74 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

<sup>21</sup> Section 75 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

If the bankrupt fails to comply with the provisions in the first two paragraphs, the Court may, upon the Receiver's application, revoke the order of discharge from bankruptcy without having prejudice to any act done subsequent to the discharge from bankruptcy and prior to such revocation order.

**Section 81** Upon revocation by the Court of the order of discharge from bankruptcy, the Receiver shall publish it in the Government Gazette and in at least one daily newspaper and shall notify all creditors of the time within which applications may be made for receipt of debt payment created by the debtor subsequent to the Court's order of discharge from bankruptcy and prior to such revocation order of the Court.

**Section 81/1**<sup>22</sup> Subject to Section 81/2, a natural person adjudged bankrupt shall forthwith be discharged from bankruptcy upon the lapse of the three-year period as from the date of the adjudication of bankruptcy, except that:

(1) Such person has previously been adjudged bankrupt and the period of five years has not elapsed as from the date of such previous adjudication of bankruptcy up to the date of the receivership order subsequently issued by the Court, in which case the period of time shall be extended to five years;

(2) Such person is a dishonest bankrupt who is not of the description under (3), in which case the period of time shall be extended to ten years, except that in case, there arises a special reason and such person has been adjudged bankrupt for not less than five years, the Court may issue an order of discharge from bankruptcy before the expiration of ten years upon application by the Receiver or the bankrupt; and

(3) Such person is a dishonest bankrupt in consequence of or in connection with the commission of an offence of granting a loan tantamount to public fraud under the law on loans tantamount to public fraud, in which case the period of time shall be extended to ten years.

In case of occurrence of at least two circumstances under (1), (2) or (3), the period of time shall be extended on the basis of only one of such circumstances lasting for the longest period.

The provisions of Section 76, Section 77 and Section 78 shall apply to the discharge from bankruptcy under this Section mutatis mutandis.

**Section 81/2**<sup>23</sup> Prior to the end of such three-year period under Section 81/1 Paragraph 1, the Receiver may apply to the Court for an order to suspend the counting of such period of time.

Upon receipt by the Court of such application, the Court shall fix the date of an inquiry as a matter of urgency and furnish a copy of the application to the bankrupt not less than seven days prior to the appointed date.

**Section 81/3**<sup>24</sup> Upon the inquiry into the application under section 81/2, if the Court considers that the bankrupt, without any reasonable cause, fails to co-operate with the Receiver in the collection of property, the Court shall, with or without conditions, issue an order to suspend the

---

<sup>22</sup> Section 81/1 has been added by the Bankruptcy Act (No.7) B.E.2547.

<sup>23</sup> Section 81/2 has been added by the Bankruptcy Act (No.7) B.E.2547.

<sup>24</sup> Section 81/3 has been added by the Bankruptcy Act (No.7) B.E.2547.

counting of such period of time under Section 81/1 as from the date of submission of the application by the Receiver or the date of the order of the Court up to the date fixed by the Court.

The suspension of counting of the period of time under Paragraph one, regardless of the number of occasions on which the Court has ordered the suspension as applied for, shall not, when all suspended periods are computed altogether, exceed two years, and in any case whatsoever the Court shall not issue an order suspending the running of the period of time under Section 81/1 (1), (2) or (3) or issue the order upon the lapse of the three-year period under Section 81/1 Paragraph 1.

The Court's order under this Section shall be final.

**Section 81/4<sup>25</sup>** Upon the issuing of the Court's order under Section 81/3, the bankrupt may, in case of change of circumstances, submit an application to the Court for cancellation or amendment of such order.

Upon receipt of such application, the Court shall fix the date of an inquiry and furnish a copy of the application to the Receiver for the purpose of giving a notice thereof to all creditors not less than seven days in advance.

The Court may issue an order cancelling or amending the order under Section 81/3.

The Court's order under this Section shall be final.

## CHAPTER 2

### PROCEEDINGS IN CASE OF DEATH OF THE DEBTOR

---

**Section 82** In the case of death of the debtor, the creditor may, if it appears that should the debtor have remained alive the creditor could institute a bankruptcy action against the debtor, institute an action requesting the administration of the debtor's estate in accordance with this Act, provided that the action shall be brought before the Court within one year as from the date of death of the debtor.

**Section 83** In instituting an action for the administration of the debtor's estate under the foregoing section, the creditor shall request that heirs, the administrator of the estate or the controller of property be summoned to appear in the action in place of the deceased debtor.

If the person so summoned does not appear before the Court or appears before the Court but raises an objection that such person is not the heir, administrator of the estate or controller of property of the deceased debtor or that he is not obligated to accept such position under the law, the Court shall conduct an inquiry. If the Court considers that such person should appear in the action in place of the deceased debtor, the Court shall issue an order to the effect that such person represents such debtor or, otherwise, issue an order requiring the creditor to take further action in requesting the summoning of other persons to appear in the action in place of the deceased debtor.

**Section 84** Upon the Court's judgment for the administration of the debtor's estate, the action and the administration of such estate shall be carried out in accordance with the provisions of this Act to the extent possible.

The person representing the deceased debtor is under the obligation to submit the explanation under Section 30. Necessary costs incurred therein shall be taken out of the estates.

---

<sup>25</sup> Section 81/4 has been added by the Bankruptcy Act (No.7) B.E.2547.

**Section 85** Any act done by the heir, administrator of the estate or controller of property in connection with the estates shall, with respect to its validity, be deemed as the act of the debtor or the bankrupt in accordance with the provisions of this Act.

**Section 86** When payment of all the debts has been made in full together with interest provided in this Act and all fees as well as costs, the Receiver shall deliver the remaining estates, if any, to the person representing the deceased debtor or to the administrator of the estates.

**Section 87** If the debtor dies during the trial or when the Court has adjudged the debtor bankrupt, the proceedings shall be continued and the provisions of this Chapter shall also apply.

### CHAPTER 3

#### PROCEEDINGS IN THE EVENT THAT THE DEBTOR IS AN ORDINARY PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED COMPANY OR OTHER JURISTIC PERSON

---

**Section 88** In case, the debtor is a registered ordinary partnership, a limited partnership, a limited company or any other juristic person, apart from an action capable of institution by a creditor before the Court for adjudging such juristic person bankrupt in accordance with the provisions in Chapter 1, the liquidator of such juristic person may file a petition with the Court for adjudging such juristic person bankrupt if it appears that, when full payments of the contribution or of the amount of shares have been made, assets are insufficient for repayment of debts.

Upon receipt by the Court of the petition, the Court shall forthwith issue an absolute receivership order against such juristic person and the meeting of creditors shall appoint one among themselves for the purpose of exercising rights and assuming duties as if such appointed creditor were the plaintiff creditor.

**Section 89** Upon the Court's receivership order against the registered ordinary partnership or a limited partnership, the plaintiff creditor or the Receiver may file a petition by motion for adjudging bankrupt persons proved to become partners with unlimited liability in such partnership without instituting a new action.

**Section 90** Upon the petition under the foregoing section, if the plaintiff creditor or the Receiver makes an ex parte application by motion for a temporary receivership order against partners and adduces evidence to the satisfaction of the Court that the application has a prima facie case, the Court has the power to issue a temporary receivership order against such persons, but the Court may, before giving such order, require the plaintiff creditor to give security against loss in such amount as the Court deems expedient.

If it appears thereafter that the person against whom the temporary receivership order has been issued is not a partner, the Court shall issue an order withdrawing the receivership and, upon such person's application by motion, the Court has the power to order the plaintiff creditor requesting the receivership to make compensation to such person in such amount as it deems appropriate or may order the Receiver to make payment out of the partnership's assets.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

If the plaintiff creditor fails to comply with the order of the Court as specified in the foregoing paragraph, the Court has the power to exercise enforcement against such creditor as if the creditor were a judgment debtor.

**CHAPTER 3/1**  
**PROCEEDINGS ON THE DEBTOR'S REORGANIZATION<sup>26</sup>**

---

**PART 1**  
**DEFINITIONS**

---

**Section 90/1** In this Chapter, unless otherwise indicated by the context:

“Creditor” means the secured creditor or unsecured creditor;

“Debtor” means the debtor that is a limited company, a public limited company or any other juristic person as prescribed in the Ministerial Regulations;

“Petition” means a petition for the Court’s reorganization order;

“Petitioner” means the person who submits a petition for the Court’s reorganization order;

“Plan” means the reorganization plan;

“Debtor’s Shareholder” means a shareholder of a limited company or a public limited company that is the debtor and it shall also include persons having such interests in any other juristic person that is the debtor as in the position similar to that of the shareholder;

“Plan Preparer” means the person who prepares the reorganization plan;

“Plan Administrator” means the person who manages the business and property of the debtor in accordance with the reorganization plan;

“Debtor’s Executives” means directors, managers or persons with authority to operate the debtor’s business on the date of the Court’s reorganization order;

“Interim Executives” means the debtor’s executives or other persons who are authorized by the Court’s order to temporarily manage the debtor’s business and property during the period of the Court’s reorganization order while the plan preparer has not yet been appointed.

**PART 2**  
**PETITION FOR AND APPROVAL OF REORGANIZATION**

---

---

<sup>26</sup> Chapter 3/1 “Procedures on the Debtor’s Reorganization” Section 90/1 to Section 90/90 has been added by the Bankruptcy Act (No.4) B.E.2541.

**Section 90/2** The creditor, the debtor or a State agency under Section 90/4 may file a petition for the debtor's reorganization in accordance with the provisions of this Chapter, no matter whether a bankruptcy action has been instituted against the debtor or not.

In respect of any part of the proceedings not specifically provided in this Chapter, the provisions in other Chapters of this Act shall apply mutatis mutandis.

**Section 90/3** When the debtor becomes insolvent and is indebted to one several creditors in a definite amount of not less than ten million Baht, regardless of due date of immediate or future payment of debts, a reasonable cause and prospect for the debtor's reorganization, the person under Section 90/4 may file a petition with the Court for reorganization.

**Section 90/4** Subject to Section 90/5, the following persons shall be entitled to file a petition with the Court for reorganization:

- (1) One or several creditors, with definite amount of debts of not less than ten million Baht;
- (2) Debtors who have characteristics under Section 90/3;
- (3) The Bank of Thailand in case, the debtor under Section 90/3 is a commercial bank, a finance company, a finance and securities company or a credit foncier company;
- (4) The Office of Securities and Exchange Commission in case, the debtor under Section 90/3 is a securities company;
- (5) The Department of Insurance; in case, the debtor under Section 90/3 is an insurance company providing insurances against loss or a life assurance company;
- (6) State agencies with powers and duties to supervise the business operation of the debtor under Section 90/3 that is a juristic person, provided that such State agencies and the debtor shall be as prescribed in the Ministerial Regulations.

A creditor of the debtor under (3), (4), (5) or (6) or the debtor itself may personally file a petition under Section 90/3 upon obtaining written consent from the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under (6), as the case may be.

Application for consent shall be in accordance with the criteria, methods and conditions as prescribed and announced by the agency under Paragraph 2.

When the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under (6), as the case may be, has received the application for consent, such agency shall notify the result of its consideration to the applicant within fifteen days as from the date of receipt of the application. In the case of refusal to give consent, a brief account of reasons shall be given and the applicant shall have the right to appeal to the Minister exercising oversight over such agency within seven days as from the date of receipt of the result of the consideration. The Minister shall complete his decision on the appeal within fifteen days as from the date of receipt of the appeal. The decision of the Minister shall be final.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 90/5** The person under Section 90/4 may not file a petition for the debtor's reorganization in the following cases:

- (1) The Court has issued an absolute receivership order against the debtor; or
- (2) The Court or the Registrar has issued an order for the dissolution or revocation of registration of the juristic person that is the debtor or registration has been made for dissolution of such juristic person or the juristic person that is the debtor shall be dissolved on any other ground, no matter whether the liquidation of such juristic person has been complete or not.

**Section 90/6** The petition of the person under Section 90/4 for the Court's reorganization order shall clearly indicate:

- (1) The debtor's insolvency;
- (2) Names and addresses of one or several creditors to whom the debtor is indebted in an aggregate amount of not less than ten million Baht;
- (3) A reasonable cause and channels for reorganization;
- (4) Names and qualifications of the plan preparer;
- (5) A letter of consent of the plan preparer;

The plan preparer may be a natural person, a juristic person, body of persons, a creditor or an executive of the debtor;

If the creditor is the petitioner, the petition shall be accompanied by the names and addresses of other known creditors.

If the debtor is the petitioner, the petition shall be accompanied by a list of all existing property and liabilities and the names as well as clear addresses of all creditors.

**Section 90/7** In making a petition for reorganization, the petitioner shall pay the Court fees of one thousand Baht and deposit money in an amount of fifty thousand Baht as security for expenses to be borne by the petitioner in making the petition for reorganization at the time of filing the petition with the Court. If it is insufficient to cover such expenses, the Court may issue an order requiring the petitioner to deposit additional security money in such amount as the Court may deem expedient.

In case, the petitioner refuses to deposit the additional security money under paragraph one, if the Court has not yet issued reorganization order, it shall be deemed that the petitioner abandons the petition. But if the Court has issued a reorganization order, the Receiver shall summon a meeting of creditors and the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency with powers and duties to supervise the business operation of the debtor under Section 90/3 and which has given consent under Section 90/4, as the case may be, for the purpose of appointing any other creditor or the debtor or the person having given consent as the substitute petitioner as soon as possible. If there is no substitute petitioner or there is one but the said security money has not been deposited within one month as from the date on which the petitioner refused to deposit such security money as instructed by the Court's order, then the Court shall issue an order cancelling the reorganization order and the action shall be struck out of the case-list.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

In case, the creditor, the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4(6), as the case may be, is the petitioner, the plan preparer shall reimburse, out of the debtor's property, the said expenses to the petitioner without delay after the Court has issued a reorganization order.

In the proceedings for reorganization, it shall be deemed that the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4(6), as the case may be, is in the same capacity as the creditor.

**Section 90/8** The petitioner may not withdraw the petition unless upon permission by the Court. But if the Court has issued a reorganization order, the Court shall not grant permission for a withdrawal of the petition.

In case, the petitioner abandons the petition or is in default of appearance or the Court grants permission for a withdrawal of the petition, the Court shall, before ordering that the action be struck out of the case-list, publish it in at least one widely circulated daily newspaper not less than seven days in advance, in order for the same to be brought to the knowledge of all creditors and the debtor.

**Section 90/9** Upon receipt of the petition, the Court shall proceed with an inquiry as a matter of urgency and shall publish the order accepting the petition as well as the date and time of the appointed inquiry in at least one widely circulated daily newspaper at least twice with an interruption of not more than seven days and shall furnish a copy of the petition to all known creditors and the Registrar of Partnerships and Companies or the Registrar of juristic persons concerned for recordation by the Registrar of the Court's order in the Register, and also to the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4(6), as the case may be, provided that the same shall be furnished not less than seven days prior to the appointed date of the inquiry.

In case, the creditor is the petitioner, the petitioner shall furnish a copy of the petition to the debtor for the debtor's knowledge not less than seven days prior to the appointed date of the inquiry, and the debtor shall also submit to the Court an account listing all existing property and liabilities as well as the names and clear addresses of all creditors prior to the appointed date of the inquiry.

The debtor or the creditor may submit an objection not less than three days prior to the appointed date of the first inquiry. In the case of an objection to the plan preparer, the debtor or the creditor may elect to or not to nominate any other person as a plan preparer. In nominating a plan preparer, the letter of consent of the person nominated to be a plan preparer shall also be submitted.

In the event that the debtor is subject to temporary receivership, the petitioner shall also furnish a copy of the petition to the Receiver.

**Section 90/10** In conducting an inquiry into the petition, the Court shall inquire in the manner of seeking the facts provided in Section 90/3. If such facts are found to be present and there is a reasonable cause for reorganization, the Court shall, provided that the petitioner has filed the petition in good faith, issue a reorganization order; otherwise, the Court shall issue an order dismissing the petition.

In case, there is no objection of the petition, if the Court deems it expedient, the Court may cancel an inquiry and may issue a reorganization order.

**Section 90/11** The Court shall conduct an inquiry into the petition in a manner free from any temporal interruption and without adjournment until the completion of the inquiry and then issue an order, except in the case of force majeure.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The petitioner and the person raising the objection shall appear before the Court on every hearing date. The party under the duty to prove in any hearing shall prepare evidence for ready presentation. If the petitioner or the person raising the objection does not appear or fails to prepare evidence, it shall be deemed that such person no longer intends to pursue the petition or the objection or no longer intends to adduce evidence, as the case may be.

In case, the person under the duty to prove makes an application explaining that crucial evidence in connection with an important issue in the action cannot be adduced to the Court at any particular hearing on account of an inevitable necessity pertaining to such evidence, the Court may, if it deems appropriate, order an adjournment of the adducing of such evidence, provided that such adjournment is permissible only on one occasion.

In case, the petitioner or the person raising the objection is not under the duty to prove at any particular hearing, such person may, upon permission by the Court, elect not to appear before the Court at such hearing, in which case it shall be deemed that such person waives the right to cross-examine witnesses adduced at that hearing.

In case, the petitioner or the person raising the objection failed to appear before the Court at any particular hearing, whether with or without permission from the Court, it shall be deemed that such person has had the knowledge of the proceedings of the Court at that hearing.

**Section 90/12** Subject to Section 90/13 and Section 90/14, as from the date of the Court's order accepting the petition for consideration up to the date of the expiration of the period of time fixed for the implementation of the plan or the date of successful completion of the implementation of the plan or the date of the Court's order dismissing the petition or striking the action out of the case-list or cancelling the reorganization order or cancelling the reorganization or the absolute receivership against the debtor in accordance with the provisions of this Chapter, then:

(1) No action or application shall be brought before or filed with the Court for a judgment or an order dissolving the juristic person that is the debtor and the Court shall, if the action or application has been brought before it or filed with it, stay the trial of such case;

(2) The Registrar shall not issue an order dissolving or effecting registration of the dissolution of the juristic person that is the debtor and such juristic person shall not be dissolved by any other means;

(3) The Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4(6), as the case may be, shall not order revocation of business operation license of the debtor or order the debtor to cease the business operation, unless upon permission by the Court receiving the petition;

(4) No civil action shall be instituted against the debtor in connection with the debtor's property and no dispute in which the debtor may be liable or suffer loss shall be referred to arbitration for a decision if the obligation arose before the date of the Court's order approving the plan, and no bankruptcy action shall be instituted against the debtor. In case, an action has previously been instituted or a dispute has previously been referred to arbitration for decision, then a trial shall be stayed, unless the Court receiving the petition orders otherwise;

(5) A judgment creditor shall not have any execution undertaken against the debtor's property if the obligation to which the judgment relates arose before the date of the Court's order approving the plan. In case, the execution has previously been undertaken, the Court shall stay such execution unless the Court receiving the petition orders otherwise or the execution has been completed

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

before the Executing Officer became aware of the filing of the petition or the execution of the Court's judgment requiring the debtor's delivery of specific property has been completed prior to such date;

In case, the property seized or attached is perishable or delay involves risks of loss or costs incurred will exceed the value of such property, the Executing Officer shall sell it by public auction or by any other reasonable means and set aside the proceeds. If the Court issues an order approving the plan, the Executing Officer shall deliver such proceeds to the plan administrator for expending them as expenses. If the Court issues an order dismissing the petition or striking the action out of the case-list or cancelling the reorganization order or cancelling the reorganization, the Executing Officer shall pay such proceeds to the judgment creditor. But, if the Court issues an absolute receivership order against the debtor and the proceeds remain, the same shall further be delivered to the Receiver.

(6) A secured creditor shall not exercise enforcement for payment of the debt against property given as security unless upon permission by the Court receiving the petition;

(7) A creditor legally entitled to exercise self-help enforcement for payment of the debt shall not seize or sell the debtor's property;

(8) An owner of the property which is essential for the operation of the debtor's business under a contract of hire-purchase, a contract of sale or any other contract carrying a condition or a time clause for a transfer of ownership or a contract of hire the agreed term of which has not yet expired shall not exercise the right to follow and recover the property in the possession of the debtor or any other person relying on the debtor's rights or institute an action for enforcement in connection with property and liabilities arising from such contract. If an action has previously been instituted, the Court shall stay its trial unless the Court receiving the petition orders otherwise or, after the date of the Court's reorganization order, the debtor, the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator, as the case may be, commits, on two successive occasions, a default on the payment of hire-purchase remuneration, a price, remuneration for the use of the property or rent under the contract or commits a breach of any material part of the contract;

(9) The debtor shall not make any disposal, division or transfer, grant a lease, make payment of debt, create debts or perform any action having the effect of creating any encumbrance over the debtor's property except that it is an action necessary for the continuance of normal operation of the debtor's business, unless otherwise ordered by the Court accepting the petition;

(10) With respect to orders issued by the Court as provisional measures for seizing or attaching the debtor's property or prohibiting any disposal, division or transfer thereof or putting the debtor's property into temporary receivership, being the property in existence prior to the date of the Court's order accepting the petition for consideration, the Court accepting such petition has the power to order suspension of the execution thereof or amendment or variation thereof in such manner as it deems appropriate. But, if the Court thereafter issues an order dismissing the petition or striking the action out of the case-list or cancelling the reorganization order or cancelling the reorganization, the Court shall issue an order in connection with such provision measures or temporary receivership order against the debtor as the Court deems expedient;

(11) Any provider of such public utilities as electricity, water or telephone shall not suspend services supplied to the debtor unless upon permission by the Court accepting the petition or unless, after the date of the Court's reorganization order, the debtor, the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator, as the case may be, has failed to make two successive payments of charges accruing after the date of the Court's reorganization order.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The provisions of paragraph one does not preclude operators of public utilities from filing with the Court accepting the petition an application for an order protecting the applicants' interests as the Court deems expedient.

Any judgment or order of the Court or any arbitral award which is contrary to or inconsistent with the provisions of any sub-section of Paragraph 1 shall not be binding upon the debtor.

Any issuance of an order by the Registrar of Partnerships and Companies, the Registrar of any juristic person concerned or the person having the powers and duties in connection with the juristic person that is the debtor, any entry into a juristic act or any payment of debts which is done in a manner contrary to or inconsistent with the provisions of any sub-section of Paragraph 1 is void.

**Section 90/13** Any creditor or person aggrieved by the restriction of rights under Section 90/12 may file with Court accepting the petition an application for an order amending, varying or cancelling the restriction of his rights under Section 90/12 if the restriction of rights of the petitioner:

- (1) Is not necessary for the organization; or
- (2) Fails to afford sufficient protection to rights of secured creditors.

Upon receipt of the petition under Paragraph 1, the Court shall urgently consider the petition. In case, any event under Paragraph 1 occurs, the Court may issue an order as the Court deems expedient for the protection of the petitioner's interests and, for the case under (2), the Court may issue an order instructing any corrective action to ensure sufficient protection to be afforded to secured creditors.

**Section 90/14** Any of the following actions shall be regarded as sufficient protection to the secured creditors:

- (1) Payments have been made to secured creditors in the amount equivalent to the reduction of value of the property given as security which is subject to the restriction of rights under Section 90/12 (6) on account of such restriction of rights;
- (2) Payments have been made to secured creditors in compensation for the original security in the amount equivalent to the reduction of value of the property given as security which is subject to the restriction of rights under Section 90/12 (6) on account of such restriction of rights; or
- (3) Any other action has been taken to which the secured creditors have given consent or which, in the opinion of the Court, enables secured creditors to receive repayments in the amount equivalent to the value of the property given as security at the time of the filing of the petition for reorganization together with interest and benefits under contracts upon completion of the action in accordance with this Chapter.

**Section 90/15** If the period of prescription or the period of time in connection with the proceedings and execution or the period of time in connection with the referral of disputes to arbitration which is or are prohibited from being pursued or suspended under Section 90/12 expires before the expiry date of the period of time fixed for the implementation of the plan or the date of successful completion of the implementation of the plan or the date on which the Court issues an order dismissing the petition or striking the action out of the case-list or cancelling the reorganization order or cancelling the debtor's reorganization or the absolute receivership against the debtor in accordance with the provisions of this Chapter or is due to expire within six months as from such date, such period of prescription or period of time shall be treated as not having expired until the expiration of one year as from such date, as the case may be. But, if under the law such period of prescription or period of time is shorter than one year, such shorter period of prescription or period of time shall apply in lieu of such one-year period.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

### PART 3

#### APPOINTMENT OF THE PLAN PREPARER

---

**Section 90/16** In case, the Minister deems appropriate for the purposes of reorganization, the Minister may issue Ministerial Regulations in connection with the registration and prescription of qualifications of plan preparers and plan administrators.

**Section 90/17** In considering the appointment of a plan preparer, if the debtor or the creditor raising an objection does not nominate any other person as the plan preparer, the Court may, upon its issuing of a reorganization order, appoint the person nominated by the petitioner as the plan preparer. If the Court considers that the person nominated by the petitioner is not suitable for being appointed as the plan preparer or the debtor or the creditor raising an objection nominates any other person as the plan preparer, the Court shall issue an order instructing the Receiver to summon a meeting of creditors as soon as possible for considering and electing the plan preparer.

In case, the debtor has not nominated the plan preparer, a resolution electing the plan preparer shall be passed by creditors to whom the majority amount of debts is owed and who cast votes on such resolution. But, in case, the debtor nominates the plan preparer as well, the plan preparer as nominated by the debtor shall be in charge of provision of the plan unless a resolution is passed, by the creditors to whom debts are owed in the amount of not less than two-thirds of the total amount of debts owed to the creditors casting votes on such resolution, to the effect that another person shall become the plan preparer. In casting votes under this Section, secured creditors may vote at the full amount of the debts.

At a meeting of creditors for considering the election of the plan preparer, if the meeting has successfully passed a resolution electing the plan preparer and the Court gives approval thereto, the Court shall appoint such person as the plan preparer. If the Court does not give approval thereto, the Court shall issue an order instructing the Receiver to summon another meeting of creditors for electing any person nominated by the creditor or the debtor as the plan preparer.

In case, the meeting of creditors is unable to pass a resolution electing the plan preparer, the Receiver shall summon a meeting of creditors for considering and electing the plan preparer on another occasion, save that, in case, the Court deems appropriate, the Court may issue an order cancelling the organization order.

At the meeting of creditors under paragraph three or paragraph four, if the meeting has successfully passed a resolution electing the plan preparer, the Court shall appoint such person as the plan preparer save that, in case, there exists a justifiable reason for not appointing such person as the plan preparer or where the meeting is unable to pass a resolution electing the plan preparer, the Court shall issue an order cancelling the reorganization order.

The Receiver shall report the result of every meeting of creditors held for electing the plan preparer to the Court within three days as from the date of the meeting for further consideration and orders by the Court.

Any nomination of the plan preparer to the meeting of creditors shall also be accompanied by a letter of consent of the person nominated as the plan preparer.

**Section 90/18** The Receiver shall publish the date, time and venue of the meeting of creditors to be held for the election of the plan preparer in at least one widely circulated daily newspaper not less than seven days in advance and shall also notify the same to the debtor and all

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

creditors indicated in the list submitted to the Court by the debtor or the creditors and also to other known creditors.

The Receiver shall preside over the meeting of creditors and there shall be minutes of the meeting signed by the Receiver to be kept for an evidential purpose.

**Section 90/19** At every hearing by the Court and at every meeting of creditors, the debtor shall appear before the Court and attend the meeting and answer questions posed by the Court, the Receiver, the interim executive, the plan preparer, the plan administrator, the interim plan administrator or any of the creditors on matters in connection with business and property of the debtor. In such case, the debtor may give any opinions to the Court or the meeting.

Upon request by the debtor, the Court or the Receiver may grant permission for the debtor's non-appearance at any hearing of the Court or for non-attendance at any meeting of creditors, as the case may be.

The provisions of Paragraph 1 and Paragraph 2 shall also *mutatis mutandis* apply to the interim executive, the plan preparer, the plan administrator and the interim plan administrator with respect to the hearing of the Court and the meeting of creditors as long as such persons continue to assume the duties by virtue of such offices.

**Section 90/20** In case, the Court issues a reorganization order but no plan preparer has been appointed, the powers and duties of the debtor's executives in the management of business and property shall be terminated. The Court shall issue an order appointing one or several persons or the debtor's executive as interim executive(s) charged with the powers and duties to carry out further management of the debtor's business and property under supervision of the Receiver until the appointment of the plan preparer is made. During the time in which the appointment of the interim executive is unable to be made, the Receiver shall have the power to temporarily manage the debtor's business and property.

In exercising supervision, the Receiver may fix powers and duties and order the interim executive to prepare explanations on accounting matters, financial matters or any matters in connection with the management of business and property or order performance or omission of any act as he deems expedient.

When the Court deems it expedient or when an application is made by the Receiver, the Court shall have the power to issue an order instructing the interim executive to be discharged from the powers and duties. In such case, the Court may issue an order appointing a new interim executive to perform duties. In the absence of the Court's order appointing a new interim executive, the Receiver shall have the power to temporarily manage the debtor's business and property as specified in Paragraph 1.

The Court shall notify the Receiver of the reorganization order and the order appointing the interim executive or discharging the interim executive from the powers and duties and the Receiver shall publish the reorganization order in the Government Gazette and in at least two widely circulated newspapers and expeditiously notify such order to the Registrar of Partnerships and Companies or the Registrar of juristic persons concerned for the purpose of recording such order of the Court in the register and also to the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4 (6), as the case may be, for information.

**Section 90/21** Subject to Section 90/42 and Section 90/64, in case, the Court issues a reorganization order but the plan preparer has not yet been appointed, all rights under the law of the debtor's shareholders shall be terminated, except for the rights to receive dividends, and such rights shall

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

vest in the interim executive or the Receiver, as the case may be, until the plan preparer has been appointed.

The provisions of Section 90/12 (9) shall, *mutatis mutandis*, apply to the interim executive and the Receiver.

Upon the knowledge of the reorganization order, the debtor's executive shall deliver property, seals, account books and documents related to the debtor's property, liabilities and business to the interim executive or the Receiver, as the case may be, as soon as possible. For this purpose, the interim executive or the Receiver shall also have the power to instruct possessors of the said property, seals, account books and documents to deliver the same to the interim executive or the Receiver.

The interim executive who is subject to the Court's order of discharge from powers and duties shall have the powers and duties as per the provisions contained in Paragraph 3 *mutatis mutandis*.

**Section 90/22** Creditors entitled to vote at a meeting of creditors for electing the plan preparer shall be the creditors who may apply for receipt of debt payment in the reorganization, provided that the debtor established the said legal relation prior to the Court's reorganization order, even though such debt does not yet become due or is subject to a condition, and the creditors have, in accordance with the form prescribed by the Receiver, declared their intention to attend the meeting and presented evidence of their creditorship to the satisfaction of the Receiver prior to the date of the meeting.

The creditors and debtor may make a request to the Receiver for examination of the evidence of creditorship.

Creditors may cast their votes in person or by proxies made in writing.

**Section 90/23** At a meeting of creditors for electing the plan preparer, the Receiver shall inquire the debtor and creditors attending the meeting whether any objection is intended to be raised to the voting by any particular creditor. If an objection is raised to the voting by any particular creditor, the Receiver shall inquire the person raising the objection, the creditor against whom the objection is raised and the debtor as to the matters to which the objection relates if such persons attend the meeting and shall then issue an order as to whether, and to what extent, such creditor is allowed to vote in accordance with the amount of the debt.

The order of the Receiver under paragraph one shall be final and shall have the mere effect of allowing or disallowing the creditor to vote at the meeting of creditors without resulting in any change in the resolution electing the plan preparer as reported to the Court by the Receiver and without prejudice to the creditor's right to receive payment.

**Section 90/24** If the Court issues an order appointing the plan preparer, the Court shall notify such order to the plan preparer, the Receiver, the debtor's executive and the interim executive without delay. The powers and duties of the plan preparer shall commence on the date of such order by the Court, and the powers and duties of the Receiver, the debtor's executive or the interim executive shall be terminated.

Upon the Court's order of appointment of the plan preparer, the provisions of Section 90/20 Paragraph 4 and Section 90/21 Paragraph 3 shall apply *mutatis mutandis* and the Receiver shall notify such order to all creditors indicated in the list submitted to the Court by the debtor or creditors and to other known creditors.

In the publication and written notification of the order under Paragraph 2, an indication shall also be made of the time within which all creditors may submit to the Receiver, in accordance with the prescribed form, their applications for receipt of debt payment in the reorganization.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 90/25** Subject to Section 90/42 and Section 90/64, when the Court has issued an order appointing the plan preparer, the powers and duties to manage the debtor's business and property and all rights under the law of the debtor's shareholders shall, except for the rights to receive dividends, be devolved to the plan preparer and the provisions of Section 90/12 (9) shall, *mutatis mutandis*, apply to the plan preparer.

## PART 4

### APPLICATION FOR RECEIPT OF DEBT PAYMENT IN THE REORGANIZATION

---

**Section 90/26** A creditor may only apply for receipt of debt payment in the reorganization by complying with the procedures specified in this Part although the creditor is a judgment creditor or a creditor who has instituted a civil action which remains at trial, provided that the application for receipt of debt payment, together with a copy thereof, shall be submitted to the Receiver within one month as from the date of the publication of the order appointing the plan preparer, and the Receiver shall furnish the copy of the application for receipt of debt payment to the plan preparer without delay.

Any person who suffers loss because a transfer of property or any act is cancelled under Section 90/41 or because the plan administrator refuses to accept property or contractual rights under Section 90/41 (*bis*) has the right to apply for repayment, in the reorganization, of the original debt or payment of damages, as the case may be, within the time limit under Paragraph 1, provided that the computation of time shall commence as from the date on which the right to apply for receipt of debt payment in the reorganization is exercisable or, in the event of dispute as a legal case, as from the date when the case has become final.<sup>27</sup>

The provisions of Section 91 Paragraph 2, Section 105 and Section 108 and the provisions of Chapter 8 Part 2 on Fees shall, *mutatis mutandis*, apply to the application for receipt of debt payment in the reorganization.

**Section 90/27** A creditor may apply for receipt of debt payment in the reorganization if the cause of the debt arose prior to the date of the Court's reorganization order even though such debt has not yet become due or is subject to any conditions, with the exception of the debt arising in contravention of any prohibition by law or good morals or the debt incapable of legal action for enforcement thereof.

The person entitled to apply for receipt of debt payment under Section 101 may submit an application for receipt of debt payment in the reorganization for an amount that he may exercise the right of recourse in the future except that the creditor has already exercised the right to apply for repayment of the debt in its full amount.

With respect to the debt which the Receiver or the interim executive has created or the debt for which the debtor is to be liable under Section 90/12 (8) or (11) or the debt related to taxes or duties or any other debt of a similar nature, being the debt arising from the date of the Court's reorganization order up to the date of the Court's order appointing the plan preparer, being the debt arising as from the date of the Court's reorganization order up to the date of the Court's order appointing the plan preparer, the creditor has the right to receive repayment within the time specified in the plan without any need to apply for repayment thereof in the reorganization, provided that such creditor shall address a written request to the plan preparer for issuing the creditor with a certificate in recognition of his right prior to the date of the meeting of creditors held for considering the plan. The plan preparer who

---

<sup>27</sup> Section 90/26 has been amended by the Bankruptcy Act (No.5) B.E.2542.

intends to deny the creditor's right shall make such denial in writing to the creditor within fourteen days as from the date of receipt of the creditor's written request, failing which it shall be deemed to be the recognition of the creditor's right to which the request relates. If the creditor fails to address a written request to the plan preparer for issuance of a certificate in recognition of the creditor's right or the plan preparer makes a written denial of the creditor's right within the aforesaid time limit, such creditor may submit an application for receipt of debt payment in the reorganization to the Receiver within fourteen days as from the date of the meeting of creditors for considering the plan or the date on which the creditor receives such denial, as the case may be.

**Section 90/28** Subject to Section 90/12 (6), Section 90/13 and Section 90/14, a secured creditor may exercise the right to enforce the debt out of the property given as security with no need to apply for receipt of debt payment in the reorganization provided that the Receiver or the plan preparer shall be allowed to examine such property.

**Section 90/29** A creditor, the debtor or the plan preparer may address to the Receiver a request for an examination of, or may make a challenge against, applications for receipt of debt payment in the reorganization, provided that it shall be done within fourteen days as from the date when the time limit for submission of an application for receipt of debt payment has been elapsed.

**Section 90/30** If any particular creditor's application for receipt of debt payment in the reorganization is not challenged by any other creditor, the debtor or the plan preparer, such creditor shall have the right to vote in such full amount of debt as indicated in the application for receipt of debt payment. If a challenge is made, the Receiver shall urgently conduct inquiries and issue an order as to whether, and in what amount of debt, such creditor may be allowed to vote, and the provisions of Section 90/23 Paragraph 2 shall apply mutatis mutandis.

**Section 90/31**<sup>28</sup> For the purpose of the calculation of the amount of debts used in the casting of votes, if the debt in question is fixed in a foreign currency, it shall be converted into Thai Baht on the date of the Court's reorganization order as per the daily exchange rates as announced by the Bank of Thailand.

**Section 90/32** If any particular creditor's application for receipt of debt payment in the reorganization is not disputed by any other creditor, the debtor or the plan preparer, the Receiver shall have the power to issue an order approving the receipt of debt payment unless there is a reasonable cause to issue an order otherwise.

If any particular creditor's application for receipt of debt payment in the reorganization is disputed, the Receiver shall conduct an inquiry and issue any of the following orders:

- (1) To dismiss the application for receipt of debt payment;
- (2) To approve the receipt of full debt payment;
- (3) To approve the receipt of partial debt payment;

Any stakeholder may file a petition for objection of the order of the Receiver under Paragraph 1 or Paragraph 2 to the Court within fourteen days as from the date of acknowledging the Receiver's order.

---

<sup>28</sup> Section 90/31 has been amended by the Bankruptcy Act (No.5) B.E.2542.

**Section 90/33** If the creditor entitled to apply for receipt of debt payment in the reorganization is indebted to the debtor at the time of issuing of the reorganization order, such creditor may exercise the right to offset the debts, unless the creditor has acquired the rights of claims against the debtor after the Court has issued the reorganization order.

## PART 5

### EXPLANATIONS ON THE DEBTOR'S BUSINESS AND PROPERTY

---

**Section 90/34** Within seven days as from the date of acknowledging the order of appointment of the plan preparer, the debtor's executive shall submit to the plan preparer, in the prescribed form, the explanations under Section 90/35 on the debtor's business and property as already certified by the debtor's executive.

Upon the application by the debtor's executive for an extension of time submitted with a reasonable cause before the expiration the aforesaid time, the plan preparer may grant an extension of time as he deems expedient for a period not exceeding thirty days.

If the debtor's executive fails or is unable to prepare the explanation, the plan preparer shall instead prepare it and, for this purpose, shall have the power to hire a third person for rendering such assistance as the plan preparer deems appropriate, provided that costs incurred shall be deducted from the debtor's property.

**Section 90/35** Explanations on the debtor's business and property shall clearly indicate the following particulars on the date of the acceptance by the Court of the petition for consideration:

- (1) The debtor's business;
- (2) The debtor's assets, liabilities and obligations to the third parties;
- (3) Property given as security to creditors and the date of acquisition of such property as security;
- (4) Property of others withheld by the debtor;
- (5) Shareholding in companies or juristic persons or being a partner in other partnerships;
- (6) Names, occupations and detailed addresses of all creditors;
- (7) Names, occupations and detailed addresses of the debtor's debtors;
- (8) Details of the property to be devolved to the debtor in the future;
- (9) Such other information as the plan preparer deems expedient to be additionally declared.

Explanation on the debtor's business and property shall be presumed as correct evidence to set up against the debtor.

**Section 90/36** The interim executive or the Receiver shall prepare the explanation on the debtor's business and property to be submitted to the plan preparer under Section 90/35 during the period in which he has the power to temporarily manage the business and Section 90/34 shall apply *mutatis mutandis*.

**Section 90/37** In the case of necessity for the purposes of the preparation and administration of the plan, the plan preparer, the plan administrator or the interim plan administrator may apply to the Court for issuance of a warrant summoning persons who are or were the debtor's executives,

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

the debtor's employees, the debtor's auditors, the interim executives or any persons who are found or suspected to have the debtor's property in possession or believed to be indebted to the debtor or are in the position to give statements in connection with the debtor's business or property to appear before the plan preparer, the plan administrator or the interim plan administrator for making inquiries or may apply to the Court for ordering such persons to furnish any document or physical evidence which is in their custody or within their authority and related to the debtor's business or property to the plan preparer, the plan administrator or the interim plan administrator.

For the purposes of the preparation and administration of the plan, the Court or the Receiver may issue a warrant summoning the persons under Paragraph 1 to appear in the Court for an inquiry or investigation or may order such persons to send document or physical evidence.

If any person willfully resists warrant or order of the Court or the Receiver, the Court has the power to issue a warrant of arrest for detention of such person until the order of the Court or the Receiver has been complied with.

**Section 90/38** Upon application by the plan preparer, the plan administrator or the Receiver, the Court has the power to issue a decree compelling persons having admitted their indebtedness to the debtor or having admitted their possession of the debtor's property to make repayment or deliver the property to the plan preparer, the plan administrator or the Receiver within the time deemed appropriate by the Court. If the decree is not complied with, the plan preparer, the plan administrator or the Receiver may apply to the Court for issuance of a writ of execution as if such persons were judgment debtors.

**Section 90/39** When it appears that the debtor has the right to demand any person to make repayment of debt or deliver the property to the debtor and such person does not admit his indebtedness to the debtor or his possession of the debtor's property, the plan preparer or the plan administrator shall notify it to the Receiver for further proceeding.

The Receiver shall serve such person a written notice demanding repayment of debt or delivery of the property to which the notice relates, with a statement therein that if such person intends to deny indebtedness such denial refusal shall, within fourteen days as from the date of receipt of the notice, be made in writing to the Receiver with an indication of supporting reasons therefor, failing which such person shall conclusively be deemed to have been indebted to the debtor as stated in the notice.

If the person in receipt of the notice makes with the Receiver a denial of the indebtedness within the time limit under paragraph two, the Receiver shall conduct an inquiry. If the Receiver considers that such person is not indebted, the Receiver shall notify it to the plan preparer or the plan administrator and to such person. If the Receiver considers that such person is indebted in a certain amount, the Receiver shall, by a written confirmation, notify it to the person liable, with a statement therein that such person, if an objection is intended to be raised, shall file an objection with the Court within fourteen days as from the date of receipt of the confirmation.

If the person in receipt of the written confirmation files, by motion, an objection with the Court within the time limit under paragraph three, the Court shall consider it. If the Court is satisfied that the indebtedness exists, the Court shall issue a decree demanding such person to make repayment or deliver the property to the plan preparer or the plan administrator. If the Court considers that the indebtedness does not exist, the Court shall issue an order striking it out of the list of debtors.

If the person in receipt of the notice from the Receiver addresses no denial to the Receiver or files with the Court no objection within the aforesaid time limit, the Receiver may apply to the

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

Court for a decree compelling such person to perform the obligation within such time as the Court deems expedient.

If such person fails to comply with the decree issued by the Court, the Receiver may apply to the Court for issuance of a writ of execution as if such person were the judgment debtor.

In case, the person who is demanded to perform files an objection with the Court, the Receiver may apply, by motion, to the Court for an order seizing or attaching the property of the person filing a temporary objection before issuing an order with respect to such debt.

## PART 6

### REVOCATION OF THE EXECUTED JURISTIC ACTS

---

**Section 90/40** The plan preparer, the plan administrator or the Receiver may apply, by motion, to the Court for cancellation of fraudulent acts in accordance with the Civil and Commercial Code.

If the juristic act intended to be cancelled on the ground of fraud arose during the period of one year before the date of filing the application and thereafter or constitutes a gratuitous act or constitutes an act under which the debtor has received unreasonably small remuneration, it shall prima facie be presumed to be an act whereby the debtor or the person enriched thereby knew that it would be prejudicial to the creditor.

**Section 90/41**<sup>29</sup> When it appears that there existed a transfer of property or any act done by the debtor or done with the debtor's consent during the period of three months before the filing of the application and thereafter with the intent to enable any creditor to have an advantage over other creditors, then the plan preparer, the plan administrator or the Receiver may file an application by motion to the Court. In this connection, the Court has the power to order a cancellation of such transfer or such act.

If the creditor who has become advantaged is the debtor's insider, the Court has the power to order a cancellation of such transfer or such act under paragraph one as done during the period of one year before the filing of the application and thereafter.

The cancellation of the transfer or the act under this section is not prejudicial to rights of third persons acquired in good faith and for value before the filing of the application.

**Section 90/41 (bis)**<sup>30</sup> Within the period of two months as from the date of the plan administrator's knowledge of the Court's order approving the plan, the plan administrator has the power to refuse to accept the debtor's property or contractual rights bearing unreasonably greater burdens than benefits to be derived therefrom, as specified in the plan.

Any creditor or any person who is injured by an act done by the plan administrator under this section may file an application by motion to the Court within fourteen days as from the date of the knowledge of such act. The Court has the power to issue an order affirming, overruling or correcting such act or any order as the Court deems expedient.

Any damaged person under this Section shall be entitled to apply for receipt of debt payment in the reorganization for the damages concerned.

---

<sup>29</sup> Section 90/41 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>30</sup> Section 90/41 (bis) has been amended by the Bankruptcy Act (No.5) B.E.2542.

## PART 7

### MEETINGS OF CREDITORS FOR CONSIDERATION OF THE REORGANIZATION PLAN

---

**Section 90/42**<sup>31</sup> The reorganization plan shall consist of at least the following particulars:

- (1) Reason for the reorganization;
- (2) Details of the debtor's property, liabilities and obligations at the time of issuing of the Court's reorganization order;
- (3) Principles and methods of the reorganization:
  - (a) Steps of the reorganization;
  - (b) Payment of debts, extension of time for debt payment, reduction of the amount of debts and classification of creditors;
  - (c) Reduction and increase of capital;
  - (d) Incurring of debts and fundraising, including sources of funds and conditions of such debts and funds;
  - (e) Management and exploitation of the debtor's property;
  - (f) Conditions for payment of dividends and any other benefits;
- (4) Redemption of securities, in case, there are secured creditors and liability of the guarantors;
- (5) Guidelines for problem solving in the event of temporary lack of liquidity in the course of the implementation of the plan;
- (6) Procedures in the event of transfer of rights of claims or debts;
- (7) Name, qualifications and letter of consent of the plan administrator and remunerations; provided that the provisions of Section 90/6 Paragraph 2 shall, *mutatis mutandis*, apply to the plan administrator;
- (8) Appointment and vacation from office of the plan administrator;
- (9) Plan implementation period, which shall not exceed five years;
- (10) Rejection of the debtor's property or contractual rights, in case, the debtor's property or contractual rights shall be subject to more burdens than eligible benefits.

Provisions of Section 1117, Section 1119, Section 1145, Section 1220 to Section 1228, Section 1238 to Section 1243 of the Civil and Commercial Code, Section 31, Section 33, Section 50, Section 51, Section 52, Section 54, Section 84, Section 102, Section 107, Section 116, Section 119, Section 136, Section 137, Section 139, Section 140, Section 141, Section 146 to Section 148 of the Public Limited Companies Act B.E. 2535 and Section 39 of the Securities and Securities Exchange Act B.E. 2535 shall not apply to the plan under this Section.

**Section 90/42 (bis)**<sup>32</sup> Creditors under Section 90/42(3)(b) shall be classified, as follows:

- (1) Each secured creditor with the amount of the secured debts of not less than fifty percent of the total amount of debts which may be applied for receipt of debt payment in the reorganization shall be treated as one group;

---

<sup>31</sup> Section 90/42 has been amended by the Bankruptcy Act (No.5) B.E.2542.

(2) Secured creditors not classified in any group under (1) shall be treated as one group;

(3) Unsecured creditors may be classified into several groups; provided that unsecured creditors who have claims or benefits of an essentially identical or similar nature shall be in the same group;

(4) Creditors under Section 130 (*bis*) shall be treated as one group.

Any creditor who considers that the classification of creditors is not in conformity with Paragraph 1 may file an application with the Court within seven days as from the date of acknowledging the classification and the Court may issue an order for immediate reclassification thereof, and the Court's order under this Section shall be final.

**Section 90/42 (*ter*)**<sup>33</sup> Rights of the creditors in the same group shall receive equal treatment, unless the creditors who are disadvantageously treated in that group have given their written consent.

**Section 90/43** Within the period of three months as from the date of the publication of the order appointing the plan preparer in the Government Gazette, the plan preparer shall furnish the plan to the Receiver together with sufficient copies thereof in order for the same to be further furnished to creditors entitled to vote and the debtor.

The Court may grant an extension of the time limit under Paragraph 1 on not more than two occasions and for a period not exceeding one month for each occasion.

**Section 90/44** Upon receipt of the plan together with copies thereof from the plan preparer, the Receiver shall summon a meeting of creditors who are entitled to vote as soon as possible for discussion and passing a resolution on whether to accept the plan or revise it in any manner, provided that copies of the plan shall be furnished, and notice of the date, time, venue and agendas of the meeting shall be given, to the creditors who are entitled to vote, the debtor and the plan preparer, and the schedule of the said meeting shall also be published in at least one widely circulated daily newspaper not less than ten days in advance prior to the date of the meeting.

In case, the plan preparer is, for a special reason, unable to attend the meeting, a notice of postponement of the meeting shall be given to the Receiver prior to the date of the meeting, unless such prior notice is rendered impossible by reason of force majeure.

If the plan preparer does not attend the meeting, the Receiver shall address a question at the meeting of creditors as to whether the consideration of the plan is to be postponed. If the meeting passes a resolution postponing it, the Receiver may postpone the consideration of the plan as he deems appropriate, provided that the new date and time of the meeting shall be notified at the meeting, and the creditor, the debtor or the plan preparer not attending the meeting shall be deemed to have had the knowledge of the appointment.

**Section 90/45** A creditor, the debtor or the plan preparer may request a revision of the plan by submitting an application to the Receiver not less than three days prior to the date of the meeting.

---

<sup>32</sup> Section 90/42 (*bis*) has been amended by the Bankruptcy Act (No.5) B.E.2542.

In case, the application is made by a creditor or the debtor, a copy of the application for a revision of the plan shall also be furnished, for information, to the plan preparer not less than three days prior to the date of the meeting.

The person making a request for a revision of the plan by changing the plan administrator shall also furnish a letter of consent of the person nominated as the replacing plan preparer together with the application for the revision of the plan.

**Section 90/46**<sup>34</sup> The resolution approving the plan shall be a special resolution of:

(1) A meeting of each and every group of creditors;

(2) A meeting of at least one group of creditors, not being under Section 90/46 (*bis*); provided that the aggregate amount of debts owed to the creditors approving the plan at the meeting of all groups of creditors shall be not less than fifty percent of the amount of debts owed to the creditors attending the meeting of creditors in person or by proxy and voting on such resolution.

In the calculation of the amount of debts, it shall be deemed that the creditors under Section 90/46 (*bis*) have also attended the meeting and cast their votes on resolution approving such plan.

**Section 90/46 (*bis*)**<sup>35</sup> The following creditors shall be deemed to have approved the plan under Section 90/46:

(1) Creditors who have received a proposal for receipt of payment of the defaulted debt in its full amount together with interest from the plan preparer and who will receive payment of the defaulted debt in its full amount together with interest within fifteen days as from the date of the Court's order approving the plan; provided that such creditor continues to be entitled to receive repayment of the debt under the original contract or agreement and that the debtor shall be deemed to be in the position as if the debtor had never been in default;

(2) Creditors who have received a proposal for receipt of payment of debt under the original contract or agreement from the plan preparer;

(3) Creditors under Section 130 (*bis*).

**Section 90/47** At the meeting of creditors for considering the plan, if the meeting is unable to complete the consideration of transactions within the date of the meeting, the Receiver shall postpone the meeting to the next working day and the provisions on the notification of the new appointed meeting under Section 90/44 Paragraph 3 shall apply *mutatis mutandis*.

**Section 90/48**<sup>36</sup> At the meeting of creditors for considering the plan, if a request is made for any revision of the plan, the meeting of creditors shall first pass a resolution on whether to allow the revision at such request and related matters. If the meeting of creditors passes a resolution allowing the revision and the plan preparer attends the meeting, the Receiver shall ask the plan preparer whether the plan preparer allows the plan to be revised in accordance with the resolution. When the plan preparer allows the plan to be revised, the meeting of creditors shall then pass a resolution under Section 90/46 on whether to approve the revised plan.

In case, the meeting of creditors passes a resolution allowing the revision of the plan but the plan preparer does not attend the meeting, the Receiver shall postpone the meeting in order

---

<sup>33</sup> Section 90/42 (*ter*) has been added by the Bankruptcy Act (No.5) B.E.2542.

<sup>34</sup> Section 90/46 has been amended by the Bankruptcy Act (No.5) B.E.2542.

to ask the plan preparer whether the plan preparer allows the plan to be revised in accordance with such resolution and shall then proceed in accordance with the provisions of paragraph one, and the provisions on the notification of the new appointed meeting under Section 90/44 Paragraph 3 shall apply *mutatis mutandis*.

In case, no request is made for a revision of the plan or the plan preparer allows the plan to be revised, if the meeting of creditors does not pass a resolution under Section 90/46 approving the said plan or fails to pass any resolution or is attended by no creditors, the Receiver shall report it to the Court without delay.

Upon receipt of the report, the Court shall fix the hearing date as a matter of urgency and notify the Receiver of the appointed date and time. The Receiver shall give a notice thereof to the debtor and all creditors for information not less than three days in advance. At the hearing, the Court shall consider evidence in the brief and hear explanations of the Receiver and creditors as well as the debtor's objection. If the Court finds the fact under paragraph three, the Court shall issue an order cancelling the reorganization order. But, if a bankruptcy action has been instituted against the debtor and the Court deems it appropriate to adjudge the debtor bankrupt, the Court shall dismiss the petition for the reorganization and resume proceedings of the bankruptcy action which has been stayed.

**Section 90/49** In case, a request is made for a material revision of the plan, the Receiver may order the postponement of the consideration of the plan as he deems appropriate when a request for postponement is made by the plan preparer, the debtor or one or more creditors to whom the debts are owed in the aggregate amount of not less than one-tenth of the total amount of debts owed to the creditors attending the meeting, and the provisions on the notification of the new appointed meeting under Section 90/44 Paragraph 3 shall apply *mutatis mutandis*.

**Section 90/50** At the meeting of creditors which is held on account of the postponement in consequence of the plan preparer's failure to attend the meeting under Section 90/44 or Section 90/48 Paragraph 2, if the plan preparer does not attend the meeting again or attends the meeting but fails to satisfy the Receiver that there occurred a special reason or force majeure preventing his attendance at the previous meeting or preventing his prior notification before the date of the previous meeting, as the case may be, then the Receiver shall make a proposal at the meeting for considering whether a new plan preparer should be appointed. In case, the meeting of creditors passes a resolution for appointing a new plan preparer, the provisions of Section 90/51 on the election of a new plan preparer shall apply *mutatis mutandis*.

In case, a resolution is passed at the meeting of creditors for not appointing a new plan preparer, the meeting of creditors shall, regardless of whether a request is made for a revision of the plan, consider it and passes a resolution in accordance with Section 90/46 on whether to approve the plan or the revised plan if the plan preparer does not attend the meeting again. If the plan preparer attends the meeting, the Receiver shall proceed with the meeting of creditors, and the provisions of Section 90/48 shall apply *mutatis mutandis*.<sup>37</sup>

**Section 90/51** In case, the plan preparer has not allowed the plan to be revised in whole or in part in accordance with the resolution of the meeting of creditors, the Receiver shall, if the meeting of

---

<sup>35</sup> Section 90/46 (*ter*) has been added by the Bankruptcy Act (No.5) B.E.2542.

<sup>36</sup> Section 90/48 has been amended by the Bankruptcy Act (No.5) B.E.2542.

creditors has not passed a resolution under Section 90/46 approving the plan prepared by the plan preparer, ask the meeting of creditors whether to appoint a new plan preparer. If the meeting of creditors passes a resolution for an appointment of a new plan preparer, the meeting of creditors shall elect a new plan preparer on such date.<sup>38</sup>

Any creditor attending the meeting or the debtor has the right to nominate a person as a new plan preparer, provided that a letter of consent of the person so nominated shall also be produced.

If no nomination of a person to be a plan preparer under paragraph two is made by anyone, the Receiver shall postpone the meeting for electing a new plan preparer within the period of not less than three days and not more than seven days, and the provisions on the notification of the new appointed meeting under Section 90/44 Paragraph 3 shall apply *mutatis mutandis*.

**Section 90/52** If the meeting of creditors successfully passes a resolution appointing a new plan preparer, the Court shall appoint such person as a new plan preparer, and the provisions of Section 90/17 Paragraph 2 and Paragraph 6 shall apply *mutatis mutandis*.

If the meeting of creditors passes a resolution not appointing a new plan preparer or the meeting of creditors fails to pass a resolution on the election of a new plan preparer or the Court has a reasonable reason for not appointing a new plan preparer in accordance with the resolution of the meeting of creditors under paragraph one, the Receiver shall report it and apply to the Court for issuing an absolute receivership order against the debtor expeditiously. In such case, the provisions of Section 90/48 Paragraph 4 shall apply *mutatis mutandis*.

**Section 90/53** Upon appointment by the Court of a new plan preparer, the powers and duties of the new plan preparer and the original plan preparer commence and terminate on the date of such order of the Court and the Court shall notify such order to the Receiver, the original plan preparer and the new plan preparer without delay.

Upon knowledge of the Court's order, the original plan preparer shall furnish the property, seals, account books and accounts in connection with the debtor's property and business to the new plan preparer as soon as possible.

The Receiver shall publish such order in the Government Gazette and in at least one widely circulated daily newspaper and expeditiously notify such order to all creditors entitled to vote and the Registrar of Partnerships and Companies or the Registrar of juristic persons concerned for recordation by the Registrar of the Court's order in the Register and shall also notify it to persons having powers and duties in connection with the juristic person that is the debtor, for information.

**Section 90/54**<sup>39</sup> Within the period of forty five days as from the date of the knowledge of the Court's order, the new plan preparer shall furnish the plan to the Receiver for summoning a meeting of creditors in accordance with Section 90/44 Paragraph 1.

The Court may grant an extension of the time limit under Paragraph 1 on not more than two occasions and for a period not exceeding fifteen days for each occasion.

---

<sup>37</sup> Section 90/50 Paragraph 2 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>38</sup> Section 90/51 Paragraph 1 has been amended by the Bankruptcy Act (No.5) B.E.2542.

At a meeting of creditors for considering the said plan, the plan shall be, in the event of no request for revision thereof, submitted to the meeting of creditors for passing a resolution, in accordance with Section 90/46, on whether to approve it.

In case of a request for revision of the plan, the meeting of creditors shall first pass a resolution on whether to approve the requested revision and on related matters. If no resolution is passed for the plan to be revised, a resolution shall be passed, in accordance with Section 90/46, on whether to approve the plan as submitted under Paragraph 1.

If a resolution is passed for the plan to be revised but the plan preparer does not attend the meeting, a resolution shall be passed in accordance with Section 90/46 on whether to approve the revised plan. If no resolution is passed in accordance with Section 90/46 approving the said plan, a resolution shall be passed, in accordance with Section 90/46, on whether to approve the plan as submitted under Paragraph 1.

If a resolution is passed for the plan to be revised and the plan preparer attends the meeting, the Receiver shall first ask whether the plan preparer agrees therewith. If the plan preparer allows the plan to be revised in accordance with such resolution, the meeting of creditors shall then pass a resolution in accordance with Section 90/46 on whether to approve the plan as revised in accordance with the resolution of the meeting of creditors. In case, the plan preparer does not allow the plan to be revised in whole or in part in accordance with the resolution of the meeting of creditors, the meeting of creditors shall pass a resolution in accordance with Section 90/46 on whether to approve the plan as revised in accordance with the resolution of the meeting of creditors. If no resolution is passed in accordance with Section 90/46 approving the said plan, a resolution shall be passed, in accordance with Section 90/46, on whether to approve the plan as allowed by the plan preparer to be partially revised or the plan as submitted under Paragraph 1.

If the meeting of creditors does not pass a resolution in accordance with Section 90/46 approving the plan prepared by the new plan preparer or the plan as revised or fails to pass any resolution or is attended by no creditors, the Receiver shall report it to the Court without delay, and the provisions of Section 90/48 Paragraph 4 shall apply *mutatis mutandis*.

The provisions of Section 90/45 Paragraph 3, Section 90/47 and Section 90/49 shall, *mutatis mutandis*, apply to the consideration of the resubmitted plan.

**Section 90/55** If the meeting of creditors passes a resolution in accordance with Section 90/46 approving the plan, the meeting of creditors may pass a resolution appointing a committee of creditors for representing all creditors in overseeing the implementation of the plan.<sup>40</sup>

The committee of creditors shall consist of not less than three and not more than seven members to be elected from creditors or creditors' proxies. Each creditor may not have more than one proxy on the committee of creditors.

---

<sup>39</sup> Section 90/54 has been amended by the Bankruptcy Act (No.5) B.E.2542.

## PART 8

### CONSIDERATION AND APPROVAL OF THE REORGANIZATION PLAN

---

**Section 90/56** The Receiver shall expeditiously report the resolution of the meeting of creditors approving the plan to the Court in order for the Court to order whether to give approval thereto. In such case, the Court shall fix the date of urgent consideration of the plan; and the Receiver shall give a prior notice of not less than three days to the plan preparer, the debtor and all creditors.

**Section 90/57** In considering the plan, the Court shall consider the explanations of the Receiver and of the preparer, including the objection raised by the debtor or the creditors entitled to vote under Section 90/30 who did not cast a vote approving the plan.

**Section 90/58**<sup>41</sup> The Court shall issue an order approving the plan when the Court considers that:

- (1) The plan contains complete particulars under Section 90/42;
- (2) Proposals for payment of debts are not contrary to Section 90/42 (*ter*) and in case the resolution approving the plan is the resolution under Section 90/46 (2), the proposals for payment of debts under the plan shall be in accordance with the order prescribed by the law in connection with the division of property in a bankruptcy case, unless such creditors have given consent; and
- (3) The successful implementation of the plan will result in creditors receiving payment in the amount of not less than that received in the event that the Court adjudges the debtor bankrupt.

In case, the plan contains incomplete particulars under Section 90/42, the Court shall inquire the plan preparer. If the Court considers that the missing items are not material parts in the debtor's reorganization, it shall be deemed that the plan contains complete particulars under Section 90/42.

If the Court issues an order disapproving the plan, the Court shall arrange for a hearing to be held for considering whether the debtor should be adjudged bankrupt. In such case, the provisions of Section 90/48 Paragraph 4 shall apply *mutatis mutandis*.

**Section 90/59** Subject to Section 90/42 and Section 90/64, the Court shall, upon its order approving the plan, notify such order to the plan administrator and the plan preparer without delay. All rights and duties of the plan preparer shall thence vest in the plan administrator as from the time when the plan administrator has been informed of the Court's order.

The provisions of Section 90/20 Paragraph 4 and Section 90/21 Paragraph 3 shall apply *mutatis mutandis*.

In case, the debtor is the debtor under Section 90/4 (3), (4), (5) or (6), the Court shall also notify the order to the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under Section 90/4 (6), as the case may be, and the persons having the powers and duties concerned shall not issue any order which is contrary to or inconsistent with the plan approved by the Court, unless upon permission from the Court accepting the petition.

---

<sup>40</sup> Section 90/55 Paragraph 1 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>41</sup> Section 90/58 has been amended by the Bankruptcy Act (No.5) B.E.2542.

## PART 9

### PROCEEDINGS SUBSEQUENT TO THE COURT'S APPROVAL OF THE REORGANIZATION PLAN

---

**Section 90/60** The plan as approved by the Court's order shall be binding the creditors who may have applied for receipt of debt payment in the reorganization and to the creditors who are entitled to receive debt payment in the reorganization, in accordance with Section 90/27.

The Court's order approving the plan shall not have any effect of varying liabilities of persons who are the debtor's partners or bearing the joint liability together with the debtor or the guarantor or in the same position as the guarantor for the debtor, in the debts existing before the date of issuing of the Court's order approving the plan and shall not cause such persons to assume the liabilities in the debts incurred under the plan as from such date, except that such persons shall give their consent with written evidence.

**Section 90/61** Any creditor who may apply for receipt of debt payment in the reorganization but fails to submit an application for receipt of debt payment within the time limit prescribed under Section 90/26 or Section 90/27 Paragraph 3, as the case may be, shall lose the right to receive debt payment, regardless of the accomplishment of the debtor's reorganization plan, except that:

- (1) It is otherwise specified in the plan; or
- (2) The Court has issued an order to cancel the reorganization order.

**Section 90/62** A creditor shall be entitled to receive debt payment without an application for receipt of debt payment in the reorganization for debts incurred from the debtor's reorganization plan, as follows:

- (1) Debts incurred by the plan preparer, the plan administrator, the interim plan administrator, the Receiver or such person's agents;
- (2) Debts payable on taxes and duties; and
- (3) Other debts payable under specific laws such as contribution to the compensation fund, etc.

**Section 90/63** Upon the Court's order approving the plan, if there arises a necessity for a revision of the plan in facilitation of the completion thereof, the plan administrator may propose a revision of the plan. In such case, the provisions of section 90/20 paragraph four, section 90/44, section 90/45 paragraph one and paragraph two, section 90/46, section 90/47, section 90/56, section 90/57, section 90/58 paragraph one and paragraph two, section 90/59 paragraph one and section 90/60 shall apply mutatis mutandis, provided that any creditor or the debtor shall not request for a revision of the proposal for a revision of such plan, unless the plan administrator gives consent thereto.

The revision of the plan by extending the period for the implementation of the plan may be made on not more than two occasions for a period not exceeding one year for each occasion, unless it is apparent that the implementation of the plan is almost completed, in which case the plan administrator may apply for such additional extension of time as may be reasonable.

If the meeting of creditors does not pass a resolution, under Section 90/46, approving a proposal for the revision of the plan under Paragraph 1 or the Court issues an order disapproving such proposal for the revision of the plan, the plan administrator shall continue to manage the debtor's business in accordance with the original plan.<sup>42</sup>

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 90/64** The plan administrator may apply to the Court for an order approving the preparation of the debtor's new Articles of Association or the revision or alteration of the Articles of Association or statements in the debtor's Memorandum of Association in accordance with the direction stipulated in the plan or the revised plan.

Upon the Court's order granting approval under paragraph one, the provisions of Section 90/20 Paragraph 4 shall apply *mutatis mutandis*.

**Section 90/65** The plan administrator shall vacate the office in any of the following cases:

- (1) Death;
- (2) Dissolution of the juristic person that is the plan administrator;
- (3) The Court has granted permission for resignation;
- (4) The Court has issued an order of receivership or adjudged incompetent or quasi-incompetent;
- (5) Having been sentenced by a final judgment to imprisonment, except for offences committed by negligence or petty offences;
- (6) Vacated from office under the conditions prescribed in the plan;
- (7) Expiration of the operational period under the plan or successful implementation of the plan;
- (8) The Court's order for vacating the plan administrator from office.

**Section 90/66** The plan administrator shall prepare a report on the implementation of the plan for submission to the Receiver every period of three months as fixed by the Receiver.

**Section 90/67** In case, the plan administrator fails to take action in the implementation of the plan or performs duties dishonestly or causes damage to creditors or the debtor or fails to meet any qualifications required of the plan administrator as prescribed in the Ministerial Regulation or there arises any other cause making it inappropriate for the plan administrator to remain in such office, the Court may, upon a report by the Receiver or an application by motion filed by the committee of creditors or the debtor's executive, issue an order that the plan administrator vacate office or issue any other order as the Court deems expedient.

**Section 90/68** When the plan administrator vacates office and there are businesses to be carried out under the plan, the Receiver shall summon a meeting of creditors to pass a resolution under Section 90/46 and to elect a new plan administrator as soon as possible.<sup>43</sup>

When the meeting of creditors has been held on two occasions but the meeting of creditors is unable to pass the resolution under Section 90/46 for the election of a new plan administrator, the Receiver shall report it to the Court. In such case, the Court shall fix the date of hearing the Receiver's report as a matter of urgency, and the Receiver shall have such time as to be able to give a prior notice thereof to the debtor and all creditors not less than three days in advance.<sup>44</sup>

When the Court has considered evidence in the brief and heard explanations of the Receiver, creditors and the debtor, the Court shall issue an order appointing any person or the Receiver as

---

<sup>42</sup> Section 90/63 Paragraph 3 has been amended by the Bankruptcy Act (No.5) B.E.2542.

the plan administrator or issue any order as the Court deems appropriate. If the Court deems it appropriate to adjudge the debtor bankrupt, the Court shall issue an absolute receivership order against the debtor, but if the Court does not deem it appropriate to adjudge the debtor bankrupt, the Court shall issue an order to cancel the reorganization order.

The provisions of Section 90/21 Paragraph 3, Section 90/44 Paragraph 1, Section 90/51 Paragraph 2 and Paragraph 3, Section 90/52 Paragraph 1 and Section 90/53 Paragraph 1 and Paragraph 3 shall apply *mutatis mutandis*.

**Section 90/69** In case, any cause has arisen, preventing the plan administrator from performing duties temporarily or during the period when the plan administrator has vacated the office and the Court has not yet issued an order to appoint a new plan administrator, the Court shall issue an order to appoint any one or more persons as the interim plan administrator or interim plan administrators until such cause ceases to exist. During the period when an order to appoint an interim plan administrator may not be issued, the Receiver shall be an interim plan administrator.

In case, the Court has issued an order to appoint an interim plan administrator, the provisions of Section 90/20 Paragraph 4 shall apply *mutatis mutandis*.

**Section 90/70** If the debtor's executive, the plan administrator, the interim plan administrator or the Receiver, as the case may be, considers that the reorganization has been successfully completed in accordance with the plan, such person shall report the same to the Court and request the Court to issue an order to cancel the reorganization without delay, and the Court shall then fix the date of the hearing. If it is found that the reorganization has been successfully completed in accordance with the plan, the Court shall issue an order to cancel the reorganization without delay.

But, if it is found that the reorganization has not yet been successfully completed in accordance with the plan; and the operational period under the plan remains unexpired, the Court shall issue an order to continue the reorganization within the period of time under the plan. If the operational period under the plan has expired but it is apparent that the plan has been implemented to the stage near its completion, the Court may grant an extension of the period of time for the implementation of the plan as is reasonable in a particular case, otherwise, the Court shall proceed in accordance with Paragraph 2.

When the period of time for the implementation of the plan has expired but the reorganization has not yet been successfully completed in accordance with the plan, the plan administrator, the interim plan administrator or the Receiver, as the case may be, report it to the Court within fourteen days as from the expiry date of the period of time set for the implementation of the plan. In such case, the Court shall fix the date of hearing as a matter of urgency and notify the Receiver of the appointed date and time. The Receiver shall give a notice thereof to the debtor and all creditors not less than three days in advance. In its consideration, the Court shall consider evidence in the brief and hear explanations of the Receiver and creditors as well as objections of the debtor. If the Court deems it appropriate to adjudge the debtor bankrupt, the Court shall issue an absolute receivership order against the debtor, but if the Court does not deem it appropriate to adjudge the debtor bankrupt, the Court shall issue an order cancelling the reorganization.

---

<sup>43</sup> Section 90/68 Paragraph 1 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>44</sup> Section 90/68 Paragraph 2 has been amended by the Bankruptcy Act (No.5) B.E.2542.

As from the expiration of the period of time for the implementation of the plan until the issuance by the Court of an absolute receivership order against the debtor or an order cancelling the reorganization under paragraph two, the plan administrator, the interim plan administrator or the Receiver, as the case may be, continues to have the power and duty to manage the debtor's business and property to the extent necessary.

**Section 90/71** When the Court has issued an order cancelling the reorganization but the debtor's executive has not yet resumed the management the debtor's business and property, the plan administrator, the interim plan administrator or the Receiver, as the case may be, has the power to carry out the management for protecting the debtor's interests as is reasonable in the circumstances until the debtor's executive resumes the management of the debtor's business and property.

If the office of the debtor's executive becomes vacant on the date of the Court's order cancelling the reorganization and such vacancy prevents further operation of the business, the Receiver shall summon a meeting of the debtor's shareholders or take action in accordance with the law for the purpose of the appointment of the debtor's executive as soon as possible.

In case, a meeting shall be held for taking action under paragraph two, the Receiver shall preside over such meeting and it shall be deemed that it is a meeting under the law on such particular matter.

## PART 10

### DISMISSAL OF THE PETITION FOR REORGANIZATION, CANCELLATION OF THE REORGANIZATION ORDER AND CANCELLATION OF REORGANIZATION

**Section 90/72** In case, the Court issues an order dismissing the petition, the Court shall publish such order in at least one widely circulated daily newspaper and shall notify the order to the Registrar of Partnerships and Companies or the Registrar of juristic persons concerned for recordation by the Registrar of the Court's order in the Register, and also to the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or the State agency under section 90/4(6), as the case may be, for information.

**Section 90/73** In case, the Court issues an order cancelling the reorganization order or issues an order cancelling the reorganization, the Court shall notify such order to the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator, as the case may be, and to the debtor's executive without delay.

Upon the knowledge of the Court's order under paragraph one, the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator, as the case may be, shall deliver the property, seals, account books and documents related to the debtor's property and business to the debtor's executive as soon as possible.

The Receiver shall publish the order cancelling the reorganization order or the order cancelling the reorganization, as the case may be, in the Government Gazette and in at least two widely circulated daily newspapers and notify the order to the Registrar of Partnerships and Companies or the Registrar of juristic persons concerned for recordation by the Registrar of the Court's order in the Register,

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

and also to the Bank of Thailand, the Office of Securities and Exchange Commission, the Department of Insurance or state agencies under Section 90/4(6), as the case may be, for information.

**Section 90/74** In case, the Court issues an order cancelling the reorganization order, the powers and duties to handle the management of the debtor's business and property shall be restored to the debtor's executive, and the debtor's shareholders shall be restored to their rights under the law.

**Section 90/75** The order cancelling the reorganization has the effect of discharging the debtor from all debts for which applications may be made for receipt of debt payment in the reorganization, except for any debt of which repayment has been applied for by the creditor who may make an application for receipt of debt payment in the reorganization, and shall have the following consequences:

- (1) The debtor's executive is restored to the power to handle the management of the debtor's business and property;
- (2) The debtor's shareholders are restored to their rights under the law;
- (3) The remuneration of the interim executive, the plan preparer, the plan administrator or the interim plan administrator and the debts created by the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator for the benefit of the debtor's reorganization, with the exception of the debt arising from a wrongful act, carry a preferential right over all the property of the debtor and shall be treated as falling in the same priority as Priority 1 under Section 253 of the Civil and Commercial Code.

**Section 90/76** The Court's order dismissing the petition, cancelling the reorganization order and cancelling the reorganization shall not be prejudicing any act done by the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator prior to the issuance by the Court of such order.

## PART 11

### APPLICATION FOR RECEIPT OF DEBT PAYMENT UPON THE COURT'S ABSOLUTE RECEIVERSHIP ORDER AGAINST THE DEBTOR

**Section 90/77** In case, the Court issues an absolute receivership order against the debtor under Section 90/48, Section 90/50, Section 90/52, Section 90/54, Section 90/58, Section 90/68 and Section 90/70, it shall be deemed that the date of the Court's order accepting the petition for consideration is the date on which an application is made for adjudging the debtor bankrupt, and creditors entitled to receive debt payment in the reorganization, including creditors of other debts for which applications may be made for receipt of debt payment from the obligations arising as from the time of the Court's reorganization order, shall submit an application for receipt of debt payment to the Receiver within the time under Section 91, and then further action shall be taken in accordance with Section 104 to Section 108.

The debt payable as remuneration to the interim executive, the plan preparer, the plan administrator and the interim plan administrator and the debt created by the Receiver, the interim executive, the plan preparer, the plan administrator or the interim plan administrator for the benefit of the debtor's reorganization, including the debt duly created by the debtor under Section 90/12 (9) shall not be subject to the provision of Section 94 (2).

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The debts created by the Receiver, the plan preparer, the plan administrator or the interim plan administrator in accordance with the plan for the benefit of the debtor's reorganization shall be afforded the same priority as that afforded to expenses incurred by the Receiver in the management of the debtor's property under Section 130 (2).

If the creditor under paragraph one has made payment of the fee for the application for repayment of any particular debt in the reorganization, the creditor is not required to make payment of the fee for the application for receipt of debt payment in a bankruptcy action again.

The first meeting of creditors shall appoint any one or more creditors to act as the plaintiff creditor or plaintiff creditors.

**Section 90/78** The absolute receivership order issued by the Court against the debtor under the provisions of Section 90/48, Section 90/50, Section 90/52, Section 90/54, Section 90/58, Section 90/68 and Section 90/70 is not prejudicial to any act done in good faith and in the implementation of the plan prior to such order of the Court and has the effect of restoring the debts in respect of which the creditors are entitled to receive repayment in the reorganization to their original positions, unless the nature of the debt at that time does not permit it.

## PART 12 APPEALS<sup>45</sup>

---

**Section 90/79**<sup>46</sup> (Repealed)

## PART 13 PENALTIES GOVERNING THE PROCEEDINGS OF THE DEBTOR'S REORGANIZATION

---

**Section 90/80** Any person who submits a petition under Section 90/3 or a form declaring an intention to attend a meeting for electing the plan preparer under Section 90/22 or an application for receipt of debt payment in the reorganization under Section 90/26 or a written request to the plan preparer for issuing a certificate in recognition of his rights under Section 90/27 Paragraph 3 which contains material false statements likely to cause damage to the debtor, creditors, other persons or the public shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/81** Any person who gives a statement or submits an account book, a document or physical evidence contains material false statements in connection with the debtor's business and property or the debtor's reorganization to the Receiver, the plan preparer, the plan administrator or the interim plan administrator shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/82** Any person who contravenes the provisions of Section 90/12 (9) shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

---

<sup>45</sup> Part 12 "Appeals" has been repealed by the Bankruptcy Act (No.7) B.E.2547.

<sup>46</sup> Section 90/79 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

**Section 90/83** Any person who contravenes the Receiver's order issued in accordance with the provisions of Section 90/20 Paragraph 2 or contravenes the provisions of Section 90/19, Section 90/21 Paragraph 3, Section 90/24 Paragraph 2, Section 90/34, Section 90/36, Section 90/53 Paragraph 2, Section 90/59 Paragraph 2, Section 90/68 Paragraph 4, Section 90/70 Paragraph 2 or Section 90/73 Paragraph 2 without any reasonable cause shall be fined for not exceeding one hundred thousand Baht or shall be imprisoned for not exceeding one year, or both.

**Section 90/84** Any debtor's executive who commits any of the following acts:

(1) Failing to give explanations on material information in connection with the debtor's business or property to the Court, the Receiver, the plan preparer, the plan administrator or a meeting of creditors, with the exception of the case where it is proved that the act is committed with no fraudulent intent;

(2) Failing to notify the Receiver within fifteen days upon having the knowledge that an allegation of false indebtedness is made for electing a plan preparer or applying for receipt of debt payment in accordance with the plan;

(3) Failing to notify the Receiver within fifteen days upon having the knowledge that false indebtedness has been invoked in applying for receipt of debt payment under Section 90/27 Paragraph 3 or Section 90/62;

(4) Submitting a list of all existing property and liabilities and the names as well as addresses of all creditors of the debtor under Section 90/6 Paragraph 4 or Section 90/9 Paragraph 2 or submitting explanations on the debtor's business and property under Section 90/35 containing material false statements likely to cause damage to creditors;

Such person shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both.

**Section 90/85** Any person who gives, offers to give or agrees to give property or any other benefit to a creditor or any other person with the intent to gain support or approval from creditors in the election of the plan preparer or the plan administrator or the approval or revision of the plan shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/86** Any person who demands, accepts or agrees to accept property or any other benefit for himself or for any other person in order that he or any other creditor will lend support or make no objection in the election of the plan preparer or the plan administrator or the approval or revision of the plan shall be liable to a fine not exceeding three hundred thousand Baht or to imprisonment for a term not exceeding three years or to both.

**Section 90/87** Any person who, knowing the business or any information of the debtor who is under reorganization in consequence of the discharge of powers and duties prescribed in this Chapter 3/1 when in the normal circumstances of the debtor who is under reorganization such business or information is not to be disclosed, makes disclosure thereof in any manner other than in the course of the discharge of duties or other than for the purpose of reorganization under Chapter 3/1, shall be liable for a fine not exceeding three hundred thousand Baht or to imprisonment for a term not exceeding three years or to both.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 90/88** Any person, holding office as an interim executive, the plan preparer, the plan administrator or the interim plan administrator, performs or omits to perform the duty in bad faith or contravenes or fails to comply with the provisions of Chapter 3/1 with an aim to cause damage to the debtor or creditors shall be fined for not exceeding five hundred thousand Baht or shall be imprisoned for not exceeding five years, or both.

**Section 90/89** In case, the offender committing an offence in Chapter 3/1 is a juristic person, if the commission of the offence by such juristic person is attributable to the giving of directions or omission from giving directions or an act or omission from carrying out an act required of a director, manager or any person responsible for the operation of such juristic person, then such person shall also be liable to the penalty provided for such offence.

**Section 90/90** The debtor and creditors shall also be the injured persons for offences in accordance with the provisions of Chapter 3/1.

**CHAPTER 3/2**  
**PROCEEDINGS ON THE REORGANIZATION OF THE DEBTOR**  
**WHICH IS A SMALL AND MEDIUM ENTERPRISE**

---

**PART 1**  
**DEFINITIONS**

---

**Section 90/91**<sup>48</sup> Unless otherwise indicated by the context, in this Chapter:

“Creditor” means the secured creditor or unsecured creditor;

“Debtor” means a debtor who is a natural person, body of persons, unregistered ordinary partnership, juristic ordinary partnership, limited partnership, limited company or other juristic person as prescribed in the Ministerial Regulations, operating business as a small and medium enterprise under the law governing the promotion of small and medium enterprises registered with the Office of Small and Medium Enterprises Promotion or registered with other state agencies;

“Petition” means a petition for the Court’s reorganization order;

“Petitioner” means the person who submits a petition for the Court’s reorganization order and approval of the plan;

“Plan” means the Reorganization Plan;

“Debtor’s Shareholder” means a shareholder of unregistered ordinary partnership, juristic ordinary partnership, limited partnership, limited company or other juristic person as prescribed in the Ministerial Regulations, who is a debtor; and it shall also include a stakeholder in a body of persons who is a debtor;

---

<sup>47</sup> Chapter 3/2 “Proceedings on the Reorganization of the Debtor which is a Small and Medium Enterprise”, Section 90/91 to Section 90/128, has been added by the Bankruptcy Act (No.9) B.E.2559.

“Plan Administrator” means the person who manages business and property of the debtor according to the Plan;

“Debtor’s Executives” means managing partners, directors, managers or persons with authority to operate the debtor’s business on the date of the Court’s reorganization order and approval of the plan;

## PART 2

### APPLICATION FOR REORGANIZATION AND APPROVAL WITH THE PLAN

---

**Section 90/92**<sup>49</sup> When the debtor is not in the status to pay debts, and such debts are incurred from the business operation and owed to one or several creditor(s); whereas, the debtor who is a natural person shall have the exact amount of debts of not less than two million Baht; meanwhile, the debtor who is a body of persons, unregistered ordinary partnership, juristic ordinary partnership, limited partnership or other juristic person as prescribed in the Ministerial Regulations shall have the exact amount of debts of not less than three million Baht; and the debtor who is a limited company shall have the exact amount of debts of not less than three million Baht but not exceeding ten million Baht, regardless of immediate or future due date of payment thereof. In case, there is a reasonable cause and possibility for the debtor’s reorganization, the person under Section 90/93 may file a petition for the Court’s reorganization order and approval of the plan.

In case, any of the following events has occurred, it shall be presumed that the debtor is not in the status to pay debts:

- (1) The debtor has less property than the debts;
- (2) The debtor fails to pay debts within the time limit, and upon receiving a demand notice from creditors, the debtor still fails to pay debts within thirty days;
- (3) The debtor has no property for execution under the judgment; or the creditors requested for execution against the debtor but there was insufficient property for debt payment;
- (4) The debtor is in default of debt payment to any creditor; and there is a circumstance indicating that the debtor is in default of payment and may be in default of debt payment to other creditors;
- (5) The debtor has insufficient cash flow for debt payment;

**Section 90/93**<sup>50</sup> Persons who are entitled to file a petition to the Court for reorganization and approval of the plan, shall be as follows:

- (1) One or several creditors of debts incurred from business operation, with exact amount of debts under Section 90/92 Paragraph 1;
- (2) The debtor who has the characteristics under Section 90/92 Paragraph 1;

---

<sup>48</sup> Section 90/91 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>49</sup> Section 90/92 has been added by the Bankruptcy Act (No.9) B.E.2559.

**Section 90/94**<sup>51</sup> Persons under Section 90/93 may not file a petition for reorganization and approval of the debtor's plan in any of the following cases:

- (1) The Court has issued its order of absolute receivership against the debtor;
- (2) The Court or the Registrar has issued an order to cancel or revoke the registration of juristic person debtor or having registered the dissolution of such juristic person debtor for other reasons, regardless of complete liquidation of such juristic person;
- (3) The Court used to issue its order to dismiss the petition for cancellation of the order of reorganization and approval of the plan or cancellation of the debtor's reorganization under the provisions of this Chapter, within a period of six months prior to the date of filing of the petition;

**Section 90/95**<sup>52</sup> The petition of persons under Section 90/93 filed to the Court for the issuing of order for reorganization and approval of the plan, shall be clearly specified, as follows:

- (1) The state of insolvency of the debtor;
  - (2) Names and addresses of one or several creditors to whom the debtor is indebted from business operation, with the exact amount of debts under Section 90/92 Paragraph 1, including names and addresses of all creditors;
  - (3) A reasonable cause and channels for reorganization;
- The Petitioner shall attach the plan and evidence of the creditors' approval of the plan, equal to not less than two-third of the total amount of debts;

**Section 90/96**<sup>53</sup> In the plan, at least the following particulars shall be included:

- (1) Reason for reorganization;
- (2) Details of assets, liabilities and obligations of the debtor at the time of filing the petition;
- (3) Principle and methods of the reorganization;
  - (a) Steps of the reorganization;
  - (b) Debt payment, extension of the due date of debt payment, reduction of amount of debts and classification of creditors; whereas, rights of the creditors in the same group shall receive equal treatment, unless the creditors who are disadvantageously treated in that group have given their written consent;
  - (c) Reduction and increase of capital;
  - (d) Incurrence of debts and fundraising, including sources of capital and conditions of such debts and capital;
  - (e) The management and seeking of benefits from the debtor's property;
  - (f) Conditions of payment of dividends and any other benefits;
- (4) Redemption of security in case of having the secured creditors; and the guarantor's liabilities;

---

<sup>50</sup> Section 90/93 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>51</sup> Section 90/94 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>52</sup> Section 90/95 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>53</sup> Section 90/96 has been added by the Bankruptcy Act (No.9) B.E.2559.

- (5) Guidelines for problem solving, in case of temporary lack of liquidity during the compliance with the plan;
- (6) Procedures in case of transfer of rights of claims or debts;
- (7) Name, qualifications, letter of consent of the plan administrator and remunerations;
- (8) Appointment and vacation of office of the plan administrator;
- (9) Operational period under the plan of not exceeding three years;
- (10) Non-acceptance of the debtor's property or contractual rights in the event that the debtor's property or contractual rights has more burdens than eligible benefits;

**Section 90/97**<sup>54</sup> Regarding the petition for reorganization, the petitioner shall pay the Court's fees amounted to one thousand Baht and shall give deposit of expenses that the petitioner shall be responsible for the petition for reorganization to the Court, amounted to ten thousand Baht at the time of filing the petition, or according to the amount as the Court deems expedient;

In case, the petitioner refuses to give the deposit under Paragraph 1, it shall be regarded that the petitioner has abandoned the petition to the Court to strike the case out of the case list;

**Section 90/98**<sup>55</sup> The petitioner may not withdraw the petition unless the Court has granted a permission; however, in case, the Court has issued its order for reorganization and approval of the plan, the Court may not grant a permission for withdrawal of the petition.

In case, the petitioner has abandoned the petition or in default of appearance, or the Court has granted a permission to withdraw the petition, before the Court shall issue its order to strike the case out of the case list, the petitioner shall publish the same in one daily newspaper for prior notification to all creditors and the debtors for at least seven days.

### PART 3

#### CONSIDERATION OF THE PETITION FOR REORGANIZATION AND APPROVAL WITH THE PLAN

**Section 90/99**<sup>56</sup> When the Court has issued its order to accept the petition, the Court shall urgently hold an inquiry and shall announce its order of acceptance of the petition and the date and time of appointment of inquiry in one daily newspaper for at least fifteen days prior to the date of appointment of inquiry, and shall send copy of the petition and shall notify the date and time of appointment of inquiry to the debtor, all creditors and the Receiver, and shall notify the same to the Company and Partnership Registrar or the related Corporate Registrar so that the Registrar shall record the Court's order in the registration; provided that such notice thereof shall be sent for at least seven days prior to the date of appointment of inquiry.

The debtor or creditors may file an objection for at least three days prior to the date of appointment of the first inquiry.

**Section 90/100**<sup>57</sup> Regarding the inquiry of petition, the Court shall hold an inquiry for matters of fact as per the provisions of Section 90/92, Section 90/95 and the plan as per the criteria to be

---

<sup>54</sup> Section 90/97 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>55</sup> Section 90/98 has been added by the Bankruptcy Act (No.9) B.E.2559.

approved by the Court under Section 90/101. In case, such matters of facts have been obtained and there is a reasonable cause for the reorganization; and the plan has met the said criteria, and the petitioner has filed the petition in good faith, the Court shall issue its order for reorganization and approval of the plan; otherwise, the Court shall issue its order to dismiss the petition.

In case, no person has objected the petition, and the Court deems it expedient, the Court may cancel the inquiry and issue its order for reorganization and approval of the plan.

**Section 90/101**<sup>58</sup> Regarding the Court's approval of the plan, there are criteria, as follows:

- (1) The plan shall contain the complete particulars under Section 90/96;
- (2) The plan shall be approved by creditors owning at least two-third of the total amount of debts;
- (3) The proposal for debt payment under the plan shall be in accordance with sequences as provided by law, by means of division of property in a bankruptcy case, unless the creditors who are disadvantageously treated shall give their written consent to the proposal of debt payments in different sequences;
- (4) Upon successful operation according to the plan, creditors shall receive the debt payment of not less than the case that the Court has adjudged the debtor bankrupt; and
- (5) Creditors of the same group shall receive equal treatment, unless the creditors who are disadvantageously treated in that group have given their written consent;

In case, the plan contains incomplete particulars under Section 90/96, the Court shall hold an inquiry to the petitioner; and in case, the Court considers that such missing particulars of the plan are not material essences of the debtor's reorganization, it shall be regarded that such plan contains complete particulars under Section 90/96.

**Section 90/102**<sup>59</sup> In case, the Court has issued its order to dismiss the petition, then, the Court shall publish such order in one daily newspaper, and shall urgently notify such order to the Receiver and the Company and Partnership Registrar or the related Corporate Registrar so that the Registrar shall record the Court's order in the registration.

**Section 90/103**<sup>60</sup> The provisions of Section 90/11 shall, *mutatis mutandis*, apply to the Court's inquiry of the petition.

**Section 90/104**<sup>61</sup> As from the date when the Court has issued its order to accept the petition for consideration until the expiry of the operational period under the plan or the date of successful operation under the plan or the date when the Court has issued its order to dismiss the petition or to strike the case out of the case list or to cancel the order of reorganization and approval of the plan or to cancel the reorganization as per the provisions of this Chapter.

- (1) It is prohibited to enter legal actions or to request the Court to adjudge or to issue its order for dissolution of the juristic person debtor, in case, such legal actions have already been entered or the request thereof has been filed, then, the Court shall cancel the trial of such case;

---

<sup>56</sup> Section 90/99 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>57</sup> Section 90/100 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>58</sup> Section 90/101 has been added by the Bankruptcy Act (No.9) B.E.2559.

(2) The Registrar shall be prohibited to issue an order for dissolution or registration of the dissolution of the juristic person debtor; and such juristic person shall be prohibited to dissolve the business otherwise;

(3) It is prohibited to enter civil actions against the debtor relating to the debtor's property, or to refer the dispute, to which the debtor may be liable or may be damaged, to arbitration, in case, the cause of action has occurred before the date of the Court's reorganization order and approval of the plan; and it is prohibited to enter legal actions against the debtor in a bankruptcy case. In the event that there was litigation or referral of the dispute to arbitration, then, the trial shall be cancelled, unless the Court having accepted the petition shall issue its order otherwise;

(4) Judgment creditors shall be prohibited to file a petition for execution against the debtor's property, in case, the cause of action under such judgment has occurred before the date of the Court's reorganization order and approval of the plan. In the event that the execution has already been conducted, the Court shall cancel such execution, unless Court having accepted the petition shall issue its order otherwise, or the execution has been complete before the executing officer shall be informed that such petition has been filed, or in case of execution of judgments, the debtor shall completely hand over specific property prior to such date;

In case, the seized or attached property is perishable or the delay will involve a risk of loss, or costs incurred will exceed the value of such property, then, the executing officer shall sell the seized or attached property by auction or by other proper methods and shall retain such money. In case, the Court has issued its order for reorganization and approval of the plan, the executing officer shall hand over such money to the plan administrator for spending. In case, the Court has issued its order to dismiss the petition or to strike the case out of the case list, or to cancel the order of reorganization and approval of the plan, or to cancel the reorganization, then, the executing officer shall pay money to the judgment creditors.

(5) The secured creditors shall be prohibited to file a petition for execution against the property used as security, unless receiving permission from the Court accepting such petition.

(6) Creditors who are entitled to file a petition for execution of debt payment according to the law shall be prohibited to seize or dispose of the debtor's property;

(7) Owners of the property which is essence in the business operation of the debtor under the hire-purchase agreement, sale agreement or other agreements or under conditions or time clauses of transfer of ownership or the valid lease agreements as agreed, shall be prohibited to follow up and recover the possession of the said property which is under the occupation of the debtor or of others exercising the rights of the debtor, and to enter legal action for execution relating to the property and debts incurred from the said agreements. In case, such legal actions have already been entered, the Court shall cancel the trial of such case, unless the Court having accepted the petition shall issue its order otherwise, or after the date of the Court's reorganization order and approval of the plan. The debtor or the plan administrator, as the case may be, is in default of hire-purchase payment, prices, compensation for use of the property, or contractual rentals for two consecutive occasions, or is in breach of material clauses thereof;

---

<sup>59</sup> Section 90/102 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>60</sup> Section 90/103 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>61</sup> Section 90/104 has been added by the Bankruptcy Act (No.9) B.E.2559.

(8) The debtor shall be prohibited to dispose of, release, transfer, let, pay or incur debts or take any action which shall incur burdens in the property other than necessary actions so that normal trading operation of the debtor can be continued, unless the Court having accepted the petition shall issue its order otherwise;

(9) Regarding the Court's orders under the provisional measures to seize, attach, prohibit the disposal of the debtor's property or to put the debtor's property under temporary receivership, which have existed before the date of the Court's order of receipt of the petition for trial, the Court having accepted the petition shall have power to suspend the enforcement thereof or to make any amendments as it may deem expedient; however, in case, the Court has later issued its order to dismiss the petition or to strike the case out of the case list or to cancel the order of reorganization and approval of the plan or to cancel the reorganization, then, the Court shall issue its order relating to the provisional measures or order of temporary receivership of the debtor's property, as it may deem expedient;

(10) Operators of public utility services such as electricity, water supply, telephone, shall be prohibited to cancel services to the debtor, unless receiving permission from the Court having accepted the petition, or after the date of the Court's reorganization order and approval of the plan, the debtor or the plan administrator, as the case may be, fails to pay the service fees incurred after the date of the Court's reorganization order and approval of the plan for two consecutive occasions; but the public utility operators shall not be prohibited to file a petition to the Court having accepted the petition to issue an order for protection of the petitioner's interests, as the Court may deem it expedient.

The Court's judgments or orders or arbitral awards which are contrary to or inconsistent with the provisions in any sub-clause in Paragraph 1 shall not be binding the debtor.

The issuing of orders of the Company and Partnership Registrar, the related Corporate Registrar or the competent authorities relating to juristic person debtors, entry into juristic acts or any debt payments which are contrary to or inconsistent with the provisions in any sub-clause in Paragraph 1 shall be null and void.

**Section 90/105**<sup>62</sup> The provisions of Section 90/13, Section 90/14 and Section 90/15 shall, *mutatis mutandis*, apply to the amendments or cancellation of the limitation of rights of creditors, actions which shall be regarded as giving of protection to the secured creditors, prescription and period of proceedings and execution and period relating to the referral of disputes to arbitration.

## PART 4

### OPERATIONS SUBSEQUENT TO THE COURT'S REORGANIZATION ORDER AND APPROVAL WITH THE PLAN

**Section 90/106**<sup>63</sup> When the Court has issued its order for reorganization and approval of the plan, the Court shall publish the order of reorganization and approval of the plan in one daily newspaper and shall urgently notify such order to the Company and Partnership Registrar or the related Corporate Registrar so that the Registrar shall record the Court's order in the registration and shall notify such order to the Receiver for publication thereof in the Government Gazette.

---

<sup>59</sup> Section 90/102 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>60</sup> Section 90/103 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>61</sup> Section 90/104 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>62</sup> Section 90/105 has been added by the Bankruptcy Act (No.9) B.E.2559.

**Section 90/107**<sup>64</sup> The plan, as approved by the Court's order, shall be binding all creditors attending the meeting to pass a resolution on approval of the plan or having been notified to attend the meeting on the passing of such resolution.

The provisions of Section 1055(1) (2) and (4), Section 1056, Section 1057(1) and (2), Section 1117, Section 1119, Section 1145, Section 1220 to Section 1228, and Section 1238 to Section 1243 of the Civil and Commercial Code shall not apply to the plan under this Section.

The Court's reorganization order and approval of the plan shall not change the liabilities of persons who are partners of the debtor or of persons assuming joint liabilities with the debtor, or guarantors or persons in the similar capacity of guarantors of the debtor, to the amount of debts existing before the date of the Court's order, and shall not require such persons to assume their liabilities in the debts incurred under the plan as from such date, unless such persons shall give a written consent thereto.

**Section 90/108**<sup>65</sup> During the implementation with the plan, in case, a creditor has filed a petition to the Court relating to the cause of action occurred prior to the date of the Court's reorganization order and approval of the plan that the debtor has failed to elaborate its indebtedness or to give correct amounts of outstanding debts of all creditors, then, the Court shall make an appointment for urgent trial and shall send a copy of the petition to the Receiver, all creditors, the plan administrator and the debtor.

In case, the Court has held an inquiry and found out the matters of facts of creditors' request under Paragraph 1, then, the Court shall inquire the plan administrator and the debtor relating to such cause thereof. In case, the Court considers that such debts not shown nor included in the elaboration of indebtedness were insignificant errors or mistakes, then, the Court shall issue its order for the plan administrator or the debtor to correct the plan for the deficit amount of debts or to correct such errors; and it shall be regarded that the plan shall continue to be binding all creditors. In case, the Court considers that the debts not shown nor included in the elaboration of indebtedness were significant errors or mistakes, then, the Court shall issue its order to cancel the reorganization order and approval of the plan.

**Section 90/109**<sup>66</sup> In the event that the Court has issued its reorganization order and approval of the plan, then, all powers and duties relating to the management of businesses and property of the debtor and all legal rights of shareholders of the debtor, except for the rights to receive dividends, shall be devolved on the plan administrator.

**Section 90/110**<sup>67</sup> The plan administrator may request the Court to issue its order for permission of the execution of new regulations of the debtor or amendments of the regulations or statements contained in the Memorandum of the debtor as per guidelines prescribed in the plan.

When the Court has issued its order under Paragraph 1, the provisions of Section 90/106 shall apply *mutatis mutandis*.

---

<sup>63</sup> Section 90/106 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>64</sup> Section 90/107 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>65</sup> Section 90/108 has been added by the Bankruptcy Act (No.9) B.E.2559.

**Section 90/111**<sup>68</sup> The plan administrator shall vacate the office in any of the following cases:

- (1) Death;
- (2) Dissolution of the juristic person who is the plan administrator;
- (3) Resignation as permitted by the Court;
- (4) The Court has issued its order of receivership or has adjudged the plan administrator as an incompetent or quasi-incompetent person;
- (5) Having been sentenced by a final judgment to imprisonment, except for offences committed by negligence or petty offences;
- (6) Vacation of office under the conditions prescribed in the plan;
- (7) Upon expiry of the operational period under the plan or upon successful implementation of the plan;
- (8) Vacation of office by the Court's order under Section 90/133;

**Section 90/112**<sup>69</sup> The plan administrator shall prepare a report of implementation of the plan and shall propose the same to the Receiver in every three months as per the format prescribed by the Receiver;

**Section 90/113**<sup>70</sup> In case, the plan administrator fails to implement the plan or performing its duties in bad faith or causing damage to creditors or to the debtor; or when there are other improper cause to continue its capacity of plan administrator, when the Receiver has reported the same to the Court or creditors or the debtor's executives, or when the debtor has filed a petition to the Court, the Court shall issue its order to vacate the plan administrator from office or shall issue any order as the Court may deem expedient.

**Section 90/114**<sup>71</sup> When the plan administrator vacates the office, and there are businesses to be continued according to the plan, in case, the creditor or the debtor has proposed the name of a new plan administrator to the Court and there is no objection thereto, then, the Court shall issue its order to appoint such person as the plan administrator.

In case, there is an objection to the proposed name of a new plan administrator, the Court shall issue its order for the Receiver to summon a meeting of creditors as soon as possible to pass a resolution on the election of a new plan administrator; whereas, the resolution of the meeting of creditors shall be passed by at least two-third of the total amount of debts owned by creditors attending the meeting of creditors in person or by proxies and casting the votes on such resolution; and the Receiver shall propose the name of such person to the Court so that the Court shall issue its order to appoint such person as the plan administrator.

---

<sup>66</sup> Section 90/109 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>67</sup> Section 90/110 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>68</sup> Section 90/111 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>69</sup> Section 90/112 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>70</sup> Section 90/113 has been added by the Bankruptcy Act (No.9) B.E.2559.

When a meeting of creditors has been convened under Paragraph 2 but the meeting of creditors failed to pass a resolution on the election of a new plan administrator, the Receiver shall report the same to the Court. In such case, the Court shall urgently make an appointment for consideration of the Receiver's report and shall give the Receiver a period of time for sending a prior notice thereof to the debtor and all creditors for at least three days. When the Court has considered evidences in the case file and has received explanations of the Receiver, creditors and the debtor, then, the Court shall issue its order to appoint any person as the plan administrator or to cancel the reorganization order and approval of the plan or to issue any order, as the Court may deem expedient.

The provisions of Section 90/106 shall apply *mutatis mutandis*.

**Section 90/115**<sup>72</sup> In case, there is an event which temporarily prevented the plan administrator from performing his duties, or during the period when the plan administrator has vacated the office and the Court has not yet issued its order to appoint a new plan administrator, then, the Court shall issue its order to appoint one or several persons as interim plan administrator until such event has come to an end or until the Court shall issue its order to appoint a new plan administrator; provided that the interim plan administrator shall have the same powers and duties to the plan administrator.

The provisions of Section 90/106 shall apply *mutatis mutandis*.

## PART 5

### CANCELLATION OF THE REORGANIZATION ORDER AND APPROVAL WITH THE PLAN AND CANCELLATION OF THE REORGANIZATION

**Section 90/116**<sup>73</sup> In case, the debtor, the debtor's executive, the plan administrator or the Receiver, as the case may be, considers that the reorganization has been successfully implemented according to the plan, then, the Court shall be reported to issue its order for cancellation of the reorganization without delay; and the Court shall make an appointment for consideration thereof. In case, it is found that the reorganization has been successfully implemented according to the plan, then, the Court shall issue its order to cancel the reorganization without delay; but in case, it is found that the reorganization has not yet been successfully implemented according to the plan, and there is a remaining operational period under the plan, the Court shall issue its order for implementation of the reorganization within the time limit under the plan. In case, during such period, the operational period under the plan has expired but it is evident that the plan has been implemented almost completely, the Court shall extend the operational period under the plan, as may be reasonable; otherwise, the Court shall continue the operations under Paragraph 2.

When the operational period under the plan has expired but the reorganization has not yet been successfully implemented according to the plan, then, the plan administrator or the Receiver, as the case may be, shall report the same to the Court within fourteen days as from the expiry of the operational period under the plan. In case, the Court deems it expedient, the Court shall issue its order to cancel the reorganization order and approval of the plan or to cancel the reorganization.

---

<sup>71</sup> Section 90/114 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>72</sup> Section 90/115 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>73</sup> Section 90/116 has been added by the Bankruptcy Act (No.9) B.E.2559.

As from the expiry of the operational period under the plan until the date when the Court has issued its order to cancel the reorganization order and approval of the plan or to cancel the reorganization, the plan administrator shall have powers and duties to continue the management of businesses and property of the debtor insofar as it is necessary.

**Section 90/117**<sup>74</sup> In case, the Court has issued its order to cancel the reorganization order and approval of the plan or to cancel the reorganization, then, the Court shall notify such order to the Receiver, the plan administrator, the debtor and the debtor's executives without delay.

Upon acknowledging the Court's order under Paragraph 1, the plan administrator shall hand over the property, seals, account books and documents relating to the property and businesses of the debtor to the debtor or the debtor's executives as soon as possible.

The provisions of Section 90/106 shall apply *mutatis mutandis*.

**Section 90/118**<sup>75</sup> In case, the Court has issued its order to cancel the reorganization order and approval of the plan, then, powers and duties of management of businesses and property of the debtor shall be returned to the debtor or the debtor's executives; and the debtor's shareholders shall regain their legal rights.

**Section 90/119**<sup>76</sup> The order for cancellation of the reorganization shall not change the obligations in the debtor with the creditors according to the plan and shall have effects, as follows:

(1) The debtor or the debtor's executives shall regain the powers of management of businesses and property of the debtor;

(2) The debtor's shareholders shall regain their legal rights;

(3) Remunerations of the plan administrator and debts incurred by the plan administrator for the benefit of reorganization of the debtor, except for obligations arising from an unlawful act, shall be the preferential obligations over all property of the debtor and shall not be in the same class to the preferential rights, Class 1, under Section 253 of the Civil and Commercial Code.

**Section 90/120**<sup>77</sup> When the Court has issued its order to cancel the reorganization order and approval of the plan or to cancel the reorganization, but the debtor or the debtor's executive has not yet managed the businesses and property of the debtor, then, the plan administrator shall have the power of management to protect benefits of the debtor as may be suitable for circumstances until the debtor or the debtor's executive shall manage the businesses and property of the debtor.

In case, the office of the debtor's executive has vacated on the date of the Court's order for cancellation of the reorganization and approval of the plan or the Court's order of reorganization until the business operation may not be continued, the Receiver shall summon a meeting of the debtor's shareholders or shall take actions according to the law for appointment of the debtor's executive as soon as possible.

---

<sup>74</sup> Section 90/117 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>75</sup> Section 90/118 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>76</sup> Section 90/119 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>77</sup> Section 90/120 has been added by the Bankruptcy Act (No.9) B.E.2559.

In case, a meeting shall be convened for actions under Paragraph 2, the Receiver shall preside over such meeting, and it shall be regarded as the debtor's meeting.

**Section 90/121**<sup>78</sup> The Court's order for cancellation of the reorganization and approval of the plan and cancellation of reorganization shall not affect the plan administrator's actions taken prior to such Court's order.

## PART 6 STIPULATED PENALTIES

---

**Section 90/122**<sup>79</sup> Whoever has filed a petition under Section 90/92, containing any material false statements which may cause damage to the debtor, the creditors, others or the general public, shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/123**<sup>80</sup> Whoever has breached the provisions of Section 90/104(8) shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/124**<sup>81</sup> The debtor or the debtor's executive who has concealed the material details of indebtedness or showing any materially false amount of outstanding debts of all creditors which may cause damage to creditors, shall be fined for not exceeding five hundred thousand Baht or shall be imprisoned for not exceeding five years, or both.

**Section 90/125**<sup>82</sup> Whoever has ascertained the businesses or any data of the debtor under the reorganization plan resulting from the compliance with powers and duties prescribed in this Chapter, which are normal businesses or data of the debtor under the reorganization plan that should be reserved and undisclosed, or has disclosed such data in any respect in addition to the duties or for the purpose of the reorganization under this Chapter, shall be fined for not exceeding three hundred thousand Baht or shall be imprisoned for not exceeding three years, or both.

**Section 90/126**<sup>83</sup> Any plan administrator or interim plan administrator who has performed duties or omitted to perform duties in bad faith or breached or failed to comply with the provisions of this Chapter, with an aim to cause damage to the debtor or creditors, shall be fined for not exceeding five hundred thousand Baht or shall be imprisoned for not exceeding five years, or both.

**Section 90/127**<sup>84</sup> In case, an offender under the provisions contained in this Chapter is a juristic person; and the commission of offence of such juristic person is resulted from command or non-command, performance or non-performance of duties of director, manager or any person responsible for the operation of such juristic person, such offender shall be punished as per the provisions for such offence.

---

<sup>78</sup> Section 90/121 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>79</sup> Section 90/122 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>80</sup> Section 90/123 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>81</sup> Section 90/124 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>82</sup> Section 90/125 has been added by the Bankruptcy Act (No.9) B.E.2559.

**Section 90/128**<sup>85</sup> The debtor and creditors shall be the injured persons for offences in accordance with the provisions of this Chapter.

**CHAPTER 4**  
**METHODS FOR MANAGEMENT OF THE DEBTOR'S PROPERTY**

---

**PART 6**  
**APPLICATION FOR RECEIPT OF DEBT PAYMENT**

---

**Section 91** A creditor intending to receive the debt payment in a bankruptcy case, regardless of the plaintiff creditor, shall submit an application therefor to the Receiver within two months as from the date of the publication of the absolute receivership order. But, if the creditor is outside the Kingdom, the Receiver may grant an extension of period of time for not exceeding two months.

The application for receipt of debt payment shall be as per the printed form and accompanied by the list of particulars of debts and statements of collateral evidences of debts and any property of the debtor held as security or in the possession of creditors; provided that documents of indebtedness applied for receipt of debt payment shall also be attached.

**Section 91/1**<sup>87</sup> In case, a creditor failed to submit an application for receipt of debt payment within the time limit under Section 91 Paragraph 1, such creditor shall file a petition to the Court that the creditor intends to submit an application for receipt of debt payment and shall clarify the force majeure that prevented the creditor from submitting an application for receipt of debt payment within the said time limit. When the Court considers that the event is a force majeure and there is a reasonable cause for the creditor to submit an application for receipt of debt payment, the Court shall then issue an order to permit such creditor to submit an application for receipt of debt payment to the Receiver within the time limit prescribed by the Court.

The creditor who has submitted an application for receipt of debt payment under Paragraph 1 shall be entitled to receive debt payment from the debtor's estates only the property available after the division of property prior to the creditor's submission of an application for receipt of debt payment; provided that it shall not be prejudicing any actions already taken by the Court, the Receiver or the meeting of creditors.

---

<sup>83</sup> Section 90/126 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>84</sup> Section 90/127 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>85</sup> Section 90/128 has been added by the Bankruptcy Act (No.9) B.E.2559.

<sup>86</sup> Section 91 Paragraph 2 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>87</sup> Section 91/1 has been added by the Bankruptcy Act (No.8) B.E.2558.

**Section 92** Any person injured in consequence of seizure of his property under Section 109 (3) or in consequence of the cancellation of a transfer of property or any act under Section 115 or in consequence of the Receiver's refusal to accept property or contractual rights under Section 122 has the right to apply for receipt of debt payment in respect of the price of the property or the original debt or damages, as the case may be, within the time under Section 91, provided that such time shall be computed as from the date on which the right to receive debt payment becomes exercisable or, in the event of dispute as a legal case, as from the date on which the case has become final.

**Section 93** In case, the Receiver appears in the pending action on behalf of the debtor, if the Receiver loses the action, the judgment creditor has the right to apply for receipt of debt payment within the time under Section 91, provided that such time shall be computed as from the date on which the action becomes final.

**Section 94** An unsecured creditor may apply for receipt of debt payment if the cause thereof arose prior to the date of the Court's receivership order, even though such debt does not yet become due or is subject to a condition, except:

- (1) The debt arising in contravention of any prohibition under the law or good morals or the debt unenforceable by action;
- (2)<sup>88</sup> Debts created with the consent of the creditor when the creditor has known of the debtor's insolvency, excluding the debt created with the consent of the creditor in the interest of further operation of the debtor's business.

**Section 95** A secured creditor has the right over the property given as security by the debtor prior to the receivership without any need to apply for receipt of debt payment but shall allow such property to be examined by the Receiver.

**Section 96** A secured creditor may apply for receipt of debt payment on the following conditions:

- (1) When he agrees to relinquish the property given as security for the benefit of all creditors, he may apply for receipt of debt payment in full;
- (2) When enforcement has been made against the property given as security, he may apply for receipt of debt payment in respect of the outstanding amount;
- (3) When a request has been made to the Receiver for auction sale of the property given as security, he may apply for receipt of debt payment in respect of the outstanding amount;
- (4) When valuation of the property given as security has been made, he may apply for receipt of debt payment in respect of the outstanding amount. In such case, the Receiver has the power to redeem the property at such price. If such price is considered inappropriate, the Receiver has the power to sell the property by any method agreed by the Receiver and the creditor. In the absence of such agreement, the property may be sold by auction without causing loss to such creditor, and the creditor or the Receiver has the power to bid in the auction sale. The proceeds of the sale shall be deemed to be the valuation price indicated by the creditor in the application.

---

<sup>88</sup> Section 94(2) has been amended by the Bankruptcy Act (No.5) B.E.2542.

If the Receiver fails to notify the creditor in writing that he will exercise the right to redeem or agree to sell the property given as security within four months as from the date of submission by the creditor of the application for receipt of debt payment, it shall be deemed that the Receiver gives consent to the effect that the property shall become the property of the creditor at the valuation price indicated by the creditor and the Receiver loses the right to redeem or sell such property.

The provisions of this section shall not apply to the case where under the law the debtor is not liable in excess of the price of the property given as security.

**Section 97** If a secured creditor applies for receipt of debt payment without declaring his status as a secured creditor, such creditor shall return the property given as security to the Receiver and the right over such property shall terminate unless the creditor satisfies the Court that such omission has occurred by mistake, in which case the Court may grant permission for correction of the statement made in particulars of the application for receipt of debt payment and direct a return of a share in the property or issue any other direction as the Court deems expedient.

**Section 98** If the debt of which repayment is applied for is fixed in a foreign currency, there shall be a conversion of the amount into a Thai currency by reference to the exchange rate on the date of the Court's receivership order.

**Section 99** In case of debts of rentals or other debts with a fixed period of repayment and the date of the Court's receivership order does not correspond to the date of maturity thereof, the creditor may apply for receipt of debt payment pro rata up to the date of the Court's receivership order.

**Section 100** Any interest or any other cost in lieu of interest subsequent to the date of the Court's receivership order shall not be deemed as the debt of which repayment may be applied for.

**Section 101** If some of joint debtors are under receivership, other joint debtors may submit an application for receipt of debt payment in respect of the amount for which they may exercise the right of recourse at a future date unless the creditor has exercised the right to apply for receipt of debt payment in its full amount.

The provisions of the foregoing paragraph shall, *mutatis mutandis*, apply to guarantors, joint guarantors or persons in similar capacities.

**Section 102** If the creditor entitled to apply for receipt of debt payment is a debtor at the time of issuing of the receivership order, a set-off is permissible although the obligations of both parties shall have no similar objects or under conditions or time clause, except that the creditor has exercised the rights of claims against the debtor after the issuing of the receivership order.

**Section 103** When a person entitled to apply for receipt of debt payment which is subject to a condition precedent requests for a set-off, such person shall give security in respect of the amount to which the set-off request relates.

**Section 104** At the expiration of two months as from the date of publication of the absolute receivership order, the Receiver shall expeditiously arrange for a meeting of the debtor and all creditors for examining applications for receipt of debt payment, provided that a notice thereof shall be given not less than seven days in advance.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 105**<sup>89</sup> In examining applications for receipt of debt payment, whether judgment debts or not, the Receiver shall have the power to issue a warrant summoning creditors, the debtor or any person to appear for inquiries as to the debts and then prepare opinions and furnish to the Court the brief relating to the debts for which applications are made for repayment, together with a report as to whether applications for receipt of debt payment have been challenged or not.

**Section 106**<sup>90</sup> If any application for receipt of debt payment is not challenged by the debtor, any creditor or the Receiver, the Court has the power to issue an order approving such application unless there is a reasonable cause for ordering otherwise.

If any application for receipt of debt payment is challenged, the Court shall consider it and issue any of the following order:

- (1) Dismissing the application for receipt of debt payment;
- (2) Approving the receipt of full payment of debts;
- (3) Approving the application for receipt of partial debt payment;

Regarding the objection filed against the Receiver's order under Paragraph 1 or Paragraph 2, the stakeholder may file a petition for objection to the Court within fourteen days as from the date of acknowledging the Receiver's order.

Regarding the consideration and adjudication of the petition for objection under Paragraph 3, the Court shall have the power to ask for the file of application for receipt of debt payment for inspection and to order the Receiver to clarify the issue, in writing, as it may deem expedient. In case, the Court deems it expedient to investigate additional witnesses and evidences, the investigation shall be conducted promptly as may be necessary.

**Section 107**<sup>91</sup> (Repealed)

**Section 108**<sup>92</sup> When the Court has issued an order approving the creditor's application for receipt of debt payment, if it appears thereafter that the Court erred in issuing such order, the Court has the power to, upon the Receiver's application by motion, dismiss the application for receipt of debt payment or reduce the amount previously approved.

---

<sup>89</sup> Section 105 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>90</sup> Section 106 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>91</sup> Section 107 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>92</sup> Section 108 has been amended by the Bankruptcy Act (No.8) B.E.2558.

## PART 2

### PROPERTY FOR REPAYMENT OF DEBT

---

**Section 109**<sup>93</sup> The following property shall be deemed the property in a bankruptcy case dividable to creditors:

(1)<sup>94</sup> All property in the possession of the debtor at the time of commencement of bankruptcy, including the rights of claims over other persons' property, except:

a. Property for personal use which is necessary for living of the debtor as well as his spouse and minor children, required for use as per the reasonable condition in life; and

b. Animals, plants, tools and utensils for occupation of the debtor, with the aggregate value of not exceeding one hundred thousand Baht;

(2) The property acquired by the debtor subsequent to the time of commencement of bankruptcy until the time of discharge from bankruptcy;

(3) Articles in the possession or the commanding power or disposal order of the debtor in the course of the debtor's trade or business with the consent of the true owners in the circumstances indicating that the debtor is the owner at the time of filing of the bankruptcy petition against such debtor.

## PART 3

### EFFECTS OF BANKRUPTCY ON TRANSACTIONS PREVIOUSLY UNDERTAKEN

---

**Section 110** The Court's order for temporary seizure or attachment of the debtor's property or a writ of execution against the debtor's property may not be set up against the Receiver unless the execution has been completed prior to the date of the Court's receivership order.

The execution is deemed to have been completed at the expiration of the period of time within which other creditors are permitted to file an application for participation in the property under the Civil Procedure Code.

The provisions of this Section are not prejudicial to a secured creditor's right to have execution against the property given as security or to payment of money made in good faith by any person to the Court or the executing officer by an order of the Court or to validity of purchases made in good faith in the sale by auction of property as per the Court's order.

**Section 111**<sup>95</sup> When the executing officer has disposed of the property but has not yet settled payment, the executing officer shall, upon receipt of the notification that a bankruptcy petition has been filed against the debtor before the completion of the execution, hold the proceeds and, if thereafter the Court issues an absolute receivership order, deduct therefrom expenses of the executing officer and fees incurred by the plaintiff in the execution. The remaining amount shall be remitted as the property in a bankruptcy case. In such case, the executing officer shall not collect fees of the executing officer under the Civil Procedure Code.

---

<sup>93</sup> Section 109 has been amended by the Bankruptcy Act (No.2) B.E.2511.

<sup>94</sup> Section 109(1) has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>95</sup> Section 111 has been amended by the Bankruptcy Act (No.2) B.E.2511.

**Section 112**<sup>96</sup> If, while the execution has not yet been completed, the executing officer receives the notification that the debtor is placed under receivership, the executing officer shall notify particulars of the debtor's property under the executing officer's authority or possession to the Receiver and shall comply with the Receiver's requests in connection with such property. Expenses incurred by the executing officer and fees payable by the plaintiff in the execution shall first be deducted from such property. In such case, the executing officer shall not collect fees of the executing officer under the Civil Procedure Code.

**Section 113** The Receiver may apply, by motion, to the Court for cancellation of fraudulent acts in accordance with the Civil and Commercial Code.

**Section 114**<sup>97</sup> If the juristic act intended to be cancelled on the ground of fraud under Section 113 arose during the period of one year before the bankruptcy petition and thereafter or constitutes a gratuitous act or constitutes an act under which the debtor has received unreasonably small remuneration, it shall prima facie be presumed to be an act whereby the debtor and the person enriched thereby knew that it would be prejudicial to the creditor.

**Section 115** In the event of a transfer of property or any act done by the debtor or done with the debtor's consent during the period of three months before the bankruptcy petition and thereafter with the intent to enable any creditor to have an advantage over other creditors, the Court has the power to, upon the Receiver's application by motion, order a cancellation of such transfer or such act.

If the privileged creditor is the debtor's insider, the Court has the power to order a cancellation of such transfer or such act under Paragraph 1 taken during the period of one year before the petition for bankruptcy and thereafter.<sup>98</sup>

**Section 116**<sup>99</sup> The provisions of section 115 shall not be prejudicing the third parties' rights acquired in good faith and compensated before the filing of petition for bankruptcy.

## PART 4

### COLLECTION AND DISPOSAL OF PROPERTY

---

---

<sup>96</sup> Section 112 has been amended by the Bankruptcy Act (No.2) B.E.2511.

<sup>97</sup> Section 114 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>98</sup> Section 115 Paragraph 2 has been added by the Bankruptcy Act (No.5) B.E.2542.

<sup>99</sup> Section 116 has been amended by the Bankruptcy Act (No.5) B.E.2542.

**Section 117** Upon the Court's issuance of a receivership order against the debtor, the Court or the Receiver has the power to issue a warrant summoning the debtor, the debtor's spouse or any person who is found to or suspected to have the debtor's property in possession or believed to be indebted to the debtor or able to give statements in connection with the debtor's business or property to appear for inquiries or investigations and has the power to instruct such person to furnish documents or physical evidence in such person's custody authority in connection with the debtor's business or property.

In case, such person willfully resists the warrant or the order, the Court has the power to issue a warrant of arrest for detention of such person until the order of the Court or the Receiver is complied with.

**Section 118** Upon application by the Receiver, the Court has the power to issue a decree compelling persons having admitted their indebtedness to the debtor or having admitted their possession of the debtor's property to make repayment or deliver the property to the Receiver within the time deemed appropriate by the Court. If the decree is not complied with, the Receiver may apply to the Court for issuance of a writ of execution as if such persons were judgment debtors.

**Section 119** When it appears that the debtor has the right to demand any person to make payment of money or deliver the property to the debtor, the Receiver shall serve such person a written notice demanding payment of money or delivery of the property to which the notice relates, with a statement therein that if such person intends to refuse to comply with the demand a refusal shall, within fourteen days as from the date of receipt of the notice, be made in writing with an indication of supporting reasons therefor, failing which such person shall conclusively be deemed to have been indebted to the debtor's estate in the amount stated in the notice.

In case, the recipient of the notice addresses to the Receiver a denial of the indebtedness within the time limit under the foregoing paragraph, the Receiver shall conduct an inquiry. If the Receiver considers that such person is not indebted, the Receiver shall strike the name of such person out of the list of debtors and notify it to such person. If the Receiver considers that such person is indebted in a certain amount, the Receiver shall, by a written confirmation, notify it to the person liable, with a statement therein that such person, if an objection is intended to be raised, shall file an objection with the Court within fourteen days as from the date of receipt of the confirmation.

In case, the recipient of the written confirmation files a motion of objection to the Court within the time limit under the foregoing paragraph, the Court shall consider it. If the Court is satisfied that the indebtedness exists, the Court shall issue a decree demanding such person to make payment of money or deliver the property to the Receiver. If the Court considers that the indebtedness does not exist, the Court shall issue an order dismissing it out of the list of debtors.

In case, the recipient of the notice from the Receiver addresses no denial to the Receiver or files with the Court no objection within the aforesaid time limit, the Receiver may apply to the Court for a decree compelling such person to perform the obligation within such time as the Court deems expedient.

In case, such person fails to comply with the decree issued by the Court, the Receiver may apply to the Court for issuance of a writ of execution as if such person were the judgment debtor.

In the event that the person who is demanded to perform files an objection with the Court, the Receiver may file a motion to the Court to issue an order for temporary seizure or freezing of the property of the person filing the objection before issuing an order with respect to such debt.

---

<sup>100</sup> Section 117 Paragraph 1 has been added by the Bankruptcy Act (No.5) B.E.2542.

**Section 120** In case, the nature of the debtor's business provides a reasonable justification for the continuance of its operation, the Receiver may, upon approval from the meeting of creditors, carry out the debtor's business for the purpose of completing the settlement of such business or may appoint any person or the debtor as a manager, with the powers and duties as may be determined.

In case, the Receiver appoints any person other than the debtor as a manager, such person shall give security as ordered by the Receiver and has the right to receive remuneration as determined by the meeting of creditors. If it is not so determined, the Receiver shall make the determination thereof.

The manager shall prepare such account to be submitted as ordered by the Receiver.

**Section 121** In case, the debtor is a Government official, when the Court has issued a receivership order, the Receiver has the right to receive from the authority the debtor's salaries, pension, annuity, military pension or money of a similar nature for the purposes of collection into the estate and division among creditors, provided that the Receiver shall pay such living expenses of the debtor and his family as suitable for condition in life.

The provisions of the foregoing paragraph shall also apply to the case where the debtor has the right to receive money from a non-governmental entity or organization.

**Section 122** Within three months as from the date of the Receiver's acknowledgment that the debtor's property or contractual right has unreasonably greater burdens than benefits to be derived therefrom, the Receiver has the power to refuse to accept such property or contractual right.

Any person who suffers loss in consequence of the Receiver's refusal has the right to apply for receipt of debt payment for damages.

**Section 123** Upon the debtor being adjudged bankrupt, the Receiver has the power to sell the property, as collected by the Receiver, by any method which is most convenient and produces best results.

A sale by any method other than by auction requires approval from the committee of creditors except that the property is perishable or delay will involve a risk of loss, or costs incurred will exceed the value of such property.

A transferee of property from the Receiver in a sale or division thereof shall not be liable to taxes, duties or customs duties levied in the year prior to the transfer thereof.

## PART 5 DIVISION OF PROPERTY

---

**Section 124** The Receiver shall promptly divide the property remaining from the amount set aside for payment of fees and expenses, among creditors.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The division of property shall be carried out every period not exceeding six months as from the date of the Court adjudging the debtor bankrupt unless the Court grants an extension of time upon a reasonable cause.

**Section 125** The Receiver shall set aside, as it is deemed appropriate, the dividable money which is subject to any condition or disputes, and fees as well as expenses which may be incurred and shall divide money remaining therefrom among other creditors.

**Section 126** Prior to the division of money thereof, the Receiver shall publish it in at least one daily newspaper and give a notice thereof to creditors and the bankrupt not less than seven days in advance, with an indication of the date and time for examining the distribution account. If no objection thereto is made by anyone, such account is deemed to be correct and final, and the Receiver shall then publish the distribution at the Receiver's office and notify creditors of the amount dividable among them.

**Section 127** If any stakeholder makes any objection to the distribution account, the Receiver shall consider the objection and explanations of creditors and the bankrupt, and shall then issue an order as the Receiver deems expedient.

Any stakeholder may make an objection to such order by filing an application to the Court within seven days as from the date of hearing the order.

In case, an objection is filed with the Court, the Receiver shall postpone payment until the Court issues an order. But, if the Receiver considers that such postponement thereof will cause damage to stakeholders, the Receiver may set aside such money payable on fees and expenses which may be incurred as is reasonable and divide the remaining money among creditors who have made no objection.

**Section 128** No share of the division of money shall be given to any creditor when the aggregate amount of each division thereof is less than one Baht.

**Section 129** The bankrupt's husband or wife may receive a share of the distribution in the capacity as the creditor only when other creditors have received repayment of debt to their satisfaction.

**Section 130**<sup>101</sup> In the distribution of property amongst creditors, expenses and debts shall be paid for in the following order:

- (1) Expenses incurred in the administration of the deceased debtor's estate;
- (2)<sup>102</sup> Expenses incurred by the Receiver in the management of the debtor's property;
- (3) Expenses on the deceased debtor's funeral as suitable for the condition in life;
- (4) Fees for the collection of property under Section 179 (3);
- (5) Fees incurred by the plaintiff creditor and lawyers' fees as fixed by the Court or the Receiver;

---

<sup>101</sup> Section 130 has been amended by the Bankruptcy Act (No.5) B.E.2542.

<sup>102</sup> Section 130 Paragraph 1 has been amended by the Bankruptcy Act (No.8) B.E.2558.

(6) Taxes and duties due within six months prior to the receivership order and money which employees are entitled to receive prior to the receivership order in return for the service performed for the employer debtor in accordance with Section 257 of the Civil and Commercial Code and the law on labour protection;

(7) Other debts.

In case, the money is not sufficient for full payment of debt in any order, the creditors in such order shall receive a share in the division thereof proportionally.

**Section 130 (bis)**<sup>103</sup> In case, any debt under Section 130 (7) is specified by law or by a contract to the effect that the creditor has the right to receive payment only when other creditors have received payment in full, such creditor remains entitled to receive a share in the division of the property in accordance with his right as specified by such law or contract.

**Section 131** Before the final distribution, the Receiver shall give persons to whom wages or money advanced at the Receiver's order remain unpaid a notice demanding them to furnish an account of the unpaid money within fourteen days as from the date of receipt of such notice. If the same is not furnished within the time specified, the Receiver shall carry out the final distribution and make payment without regard to such unpaid money. If the person in receipt of the notice fails to perform the said action, such person loses the right to make a claim therefor.

The Receiver may grant an extension of the time limit under the foregoing paragraph when there is a reasonable cause therefor.

**Section 132** When all the debts have been paid for in full as provided in this Act, together with fees and expenses incurred in a bankruptcy case, the remaining property, if any, shall be returned to the bankrupt.

## PART 6

### CLOSURE OF THE CASE

---

**Section 133** When the Receiver has carried out the final distribution of the debtor's property or has ceased the action as agreed upon in the composition or when the debtor has no property for division, the Receiver may prepare a report indicating the statements of affairs and accounts of revenues and expenses in the bankruptcy action for submission to the Court and make a request to the Court for ordering a closure of the case. When the Court has considered the report and accounts submitted by the Receiver in conjunction with objections filed by creditors or stakeholders, the Court may or may not order a closure of the case.

When the Court has considered reports and accounts of the Receiver, together with the objection of creditors or stakeholders, the Court shall or shall not issue an order for closure of the case.

In case, the Court orders to the effect that the action not be closed, the Court may, upon application by way of a motion being submitted by a creditor or a stakeholder, order that the Receiver be liable for any action or omission in contravention of his duty.

---

<sup>103</sup> Section 130 (bis) has been added by the Bankruptcy Act (No.5) B.E.2542.

The order for closure of the case has the effect of discharging the Receiver from liability in the course of his duty until the date of issuing of the Court's order.

If it appears that the Court mistakably issued the order, the Court may cancel the order for closure of such case.

**Section 134** The order for closure of the case only has effect of suspending all management without terminating the bankruptcy case and without releasing the Receiver from the following duties:

- (1) Duties under Section 160;
- (2) Duty to approve any transactions as provided by law;
- (3) Duty to audit accounts of incomes and expenses of the bankrupt.

In case, the Receiver considers that the bankrupt has acquired new property, the Receiver may file a petition to the Court to continue the opening of the case.

## PART 7 ANNULMENT OF BANKRUPTCY

---

**Section 135** When the stakeholder or the Receiver has submitted an application, the Court has the power to issue an order for annulment of bankruptcy, in case, any of the following events has occurred:

- (1) The Receiver is unable to act to achieve results for the benefit of all creditors because the plaintiff creditor fails to provide assistance or pay fees or costs or give security money as required by the Receiver; and no other creditors is able to or willing to take such action within the period of one month as from the date of the plaintiff creditor's resistance or omission;
- (2) The debtor should not be adjudged bankrupt;
- (3) The bankrupt's debts have been fully paid;

In case, the debtor refuses to pay any debt but agrees to make an agreement and guarantees to the Court that the amount of debts and fees shall be fully paid, or if the creditor is not found but the debtor deposits the full amount of money with the Court, it shall be deemed that such debt has been fully paid.

- (4) When the Receiver has latest divided the property or there is no more property to be divided to creditors, then, within the time limit of ten years, the Receiver has been unable to collect any property of the bankrupt, and no creditor has requested the Receiver to collect property of the bankrupt.

**Section 136** The order for annulment of bankruptcy under Section 135 (1) or (2) shall not discharge the debtor from the indebtedness.

**Section 137** The order for annulment of bankruptcy shall not affect any act previously done by the Court or the Receiver; meanwhile, the bankrupt's property shall be devolved to any person as prescribed by the Court, or if not, such property shall be returned to the bankrupt.

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 138** When the Court has issued an order for annulment of bankruptcy, the Receiver shall publish such order in the Government Gazette and in at least one daily newspaper.

## CHAPTER 5

### THE RECEIVER

---

#### PART 1

#### APPOINTMENT AND REMOVAL

---

**Section 139**<sup>104</sup> The Minister has the power to appoint one or several persons, as he deems expedient, to be a receiver or receivers either in individual capacity or ex-officio capacity, and has the power to remove the appointed receiver and to issue regulations prescribing the qualifications of the receiver who shall have power to issue an order relating to an application for receipt of debt payment.

The appointment or removal of the receiver and regulations under Paragraph 1 shall be published in the Government Gazette.

#### PART 2

#### POWERS AND DUTIES

---

**Section 140** For action as a party to the case in Court, the management of the debtor's property or other actions for compliance with his duties, the Receiver shall use the title "Receiver of....., the Debtor" or "Receiver of ....., the Bankrupt", by completing the name of the debtor or the bankrupt, as the case may be, in the blank.

**Section 141** Regarding the proceedings in the Court, the Receiver shall have power to employ a lawyer to act on his behalf.

**Section 142** In addition to the provisions contained in other sections, the Receiver shall have duties, as follows:

- (1) To report matters relating to the debtor's business, property or conduct as required by the Court;
- (2) To assist in any interrogation of the debtor or other persons in court proceedings under this Act.

---

<sup>104</sup> Section 139 has been amended by the Bankruptcy Act (No.8) B.E.2558.

**Section 143** In the performance of duties, the Receiver may submit an application to the Court for issuing an order relating to any matters which are problems.

**Section 144** In case, the Receiver deems it necessary to make a loan of money for the purpose of the management of the debtor's property, the Receiver may do so upon receiving the Court's permission.

**Section 145** The Receiver may take any of the following actions only upon receiving approval from the committee of creditors:

- (1) Withdrawing any seizure of property in a bankruptcy case;
- (2) Transferring any property except by means of public auction;
- (3) Waiving any rights;
- (4) Instituting or withdrawing a civil action relating to the property in a bankruptcy case or instituting or withdrawing a bankruptcy case;
- (5) Making compromise or referring the case to arbitration.

**Section 146** In case, the bankrupt, a creditor or any person suffers loss as a result of any action or decision of the Receiver, such person may file an application by motion with the Court within the time limit of fourteen days as from the date of acknowledging such action or decision; and the Court shall have power to issue an order to confirm, reverse, correct or otherwise, as the Court deems expedient.

**Section 147** In the performance of duties, the Receiver shall not assume personal liability, unless the action in question has been taken with malicious intent or by gross negligence.

**Section 148** In instituting an action against the Receiver or any other official under this Act in respect of his action or omission provided in this Act, if the institution is not made within six months as from the date giving rise to power of litigation, such action shall be deemed to have been barred by prescription.

## CHAPTER 6

### THE COURT'S POWERS AND PROCEEDINGS OF BANKRUPTCY CASES

---

#### PART 1

#### THE COURT'S POWERS

---

**Section 149**<sup>105</sup> (Repealed)

**Section 150** An action or a petition for bankruptcy case shall be filed with the Court in the jurisdiction in which the debtor is domiciled or operating business, either in person or by proxy, at the time of filing the plaint or the petition or within the time limit of one year prior thereto.

**Section 151** The Court shall monitor the Receiver's proper performance of duties. For this purpose, the Court has the power to instruct the Receiver to prepare explanations on accounts or

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

any matters relating to the proceedings of a bankruptcy case, or may order the Receiver to take any action or omission, as the Court deems expedient.

**Section 152** In case, the Receiver has caused any damage to the estates in a bankruptcy case with malicious intent or by gross negligence, the Court has the power to order the Receiver to personally indemnify damages, as the Court deems expedient.

## PART 2 PROCEEDINGS OF BANKRUPTCY CASES

---

**Section 153**<sup>106</sup> (Repealed)

**Section 154** In any case that the Court has issued an interim receivership order against the debtor, if the plaintiff creditor abandons or withdraws the action or is in default of appearance, the Court shall, before striking the case out of the case-list, publish it in at least one daily newspaper for creditors' information, for not less than seven days in advance.

**Section 155** The plaintiff creditor shall be obliged to take care of interests of all creditors, to assist the Receiver in the collection and disposal of the debtor's property and to be liable for all fees, damages and expenses in such bankruptcy case. To guarantee this liability, the Receiver has the power to demand security from the plaintiff creditor in such an amount as he deems expedient.

**Section 156** In case, the plaintiff creditor refuses or neglects to assist the Receiver or fails to give security as specified in Section 155 within the time limit of seven days as from the date of receipt of the notification, the Receiver, with the approval by the meeting of creditors, has the power to appoint any other creditor as the plaintiff creditor.

**Section 157** When any notice summoning any meeting or notifying any matter has been given to all creditors within the Kingdom, the fact that some of the creditors have not received it does void such meeting or such matter.

**Section 158** Any stakeholder who considers that the Receiver does not have the right to seize any property shall file an objection to the Receiver. Upon receipt of such objection, the Receiver shall conduct an inquiry and issue an order. If the Receiver issues an order not to withdraw the seizure thereof, such person shall be entitled to file a petition with the Court within the time limit of fourteen days as from the date of acknowledging such order. Upon receipt of the petition, the Court shall consider it and issue an order in the same manner as in an ordinary case and shall call the Receiver to appear in the Court for his defence.

**Section 159** When the Court has issued its judgment or any order, the Court shall notify the same to the Receiver.

---

<sup>105</sup> Section 149 has been repealed by the Bankruptcy Act (No.5) B.E.2542.

<sup>106</sup> Section 153 has been repealed by the Bankruptcy Act (No.5) B.E.2542.

**CHAPTER 7**  
**INQUIRIES AND STIPULATED PENALTIES**

---

**PART 1**  
**INQUIRIES**

---

**Section 160** During the proceedings of a bankruptcy case, in case, there is a reasonable cause to believe that the debtor or any person has committed a criminal offence relating to bankruptcy, the Receiver shall also act as an inquiry official under the Criminal Procedure Code.

In the event that the public prosecutor has the opinion not to enter a legal action, which is inconsistent with that of the Receiver, the public prosecutor shall refer the case file to the Director-General of the Department of Public Prosecution for issuing an order thereof.

**PART 2**  
**STIPULATED PENALTIES**

---

**Section 161**<sup>107</sup> Any debtor who is in breach of the provisions of Section 67 (3) without any reasonable excuse shall be fined for not exceeding twenty thousand Baht or shall be imprisoned for not exceeding two months, or both.

**Section 162**<sup>108</sup> Any debtor who is in breach of the provisions of Section 64, Section 65, Section 79 or Section 80 without any reasonable excuse or obstructs the Receiver in the performance of the duty under Section 16 (1) shall be fined for not exceeding forty thousand Baht or shall be imprisoned for not exceeding four months, or both.

**Section 163**<sup>109</sup> Any debtor who has taken any of the following actions shall be found guilty and shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both:

- (1) Breaching the provisions of Section 23, Section 30 or Section 67(1) or (2) without any reasonable excuse;
- (2) Omitting to give material statements or giving false statements relating to his business or property to the Court, the Receiver or a meeting of creditors, unless it is proven that there is no fraudulent intention;
- (3) Failing to notify the Receiver within the time limit of one month upon the acknowledgment thereof or there is a reasonable cause to believe that false indebtedness has been invoked in the application for receipt of debt payment in a bankruptcy case.

---

<sup>107</sup> Section 161 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>108</sup> Section 162 has been amended by the Bankruptcy Act (No.8) B.E.2558.

**Section 164**<sup>110</sup> During the period of one year prior to a petition requesting that the debtor be adjudged bankrupt and thereafter but prior to a receivership order, any debtor who has taken any of the following actions shall be fined for not exceeding twenty thousand Baht or shall be imprisoned for not exceeding two years, or both:

(1) Diverting, hiding, destroying, damaging or altering seals, account books or documents related to his business or property or conniving at such action, unless it is proven that there is no intention to conceal the nature of his affairs;

If it appears that seals, account books or documents are lost, damaged or altered, it shall be presumed that the debtor is the perpetrator;

(2) Omitting to record material statements or recording false statements in account books or documents relating to his business or property or conniving at such omission or action;

(3) Pledging, mortgaging or disposing of any property which has been acquired on credit and the price of which has not yet been paid for, unless such act is in the course of the debtor's ordinary business and it is proven that there is no fraudulent intention;

(4) Taking a loan from any other person by means of deceiving or concealing, transferring or delivering his property in bad faith or causing or allowing any other person to cause his property to be encumbered in bad faith or allowing himself or conspiring with any other person to allow himself to be ordered by the Court to pay any debt which he should not be liable to pay.

**Section 165**<sup>111</sup> During the period as from the time of the Court's receivership order until the time of discharge of bankruptcy, any debtor who has taken any of the following actions shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both:

(1) Taking a loan from any other person in the amount of at least two hundred Baht without notifying such person that the debtor is under receivership or is bankrupt;

(2) Operating trade or business using his name or pseudonym different from that indicated in his receivership or bankruptcy and, for such purpose, acquiring a loan from any other person without notifying such person that the debtor is under receivership or is bankrupt;

(3) Operating trade or business using a name or pseudonym of any other person as a front for illicit activities;

(4) Operating trade or business using a name or pseudonym different from that indicated in his receivership or bankruptcy without publishing the following particulars in at least two daily newspapers:

- a. His name and pseudonym indicated in his receivership or bankruptcy;
- b. The address of his trade or business operation at the time when the debtor is subject to the receivership;
- c. His name and pseudonym intended for further use in his trade or business operation;
- d. The nature of trade or business operation intended to be continued;
- e. The address intended for trade or business operation.

**Section 166**<sup>112</sup> Any debtor, indebted in consequence of trade or business at the time when the debtor is subject to the receivership, and having taken any of the following actions shall be fined for not exceeding one hundred thousand Baht or shall be imprisoned for not exceeding one year, or both:

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

(1) Upon interrogation by the Receiver or an inquiry by the Court, the debtor fails to give reasonable cause for the loss of a large amount of property during the period of one year prior to a bankruptcy petition or thereafter but prior to the receivership order;

(2) Incurring debts which can be applied for receipt of payment in a bankruptcy case, without a reasonable cause to believe that the debtor is able to pay such debts.

**Section 167**<sup>113</sup> Any person, having operated commercial business as specified in the law on commercial registration, who fails to have accounts which sufficiently indicate the operation of his business or his financial position over the past three years as from the date of absolute receivership as specified in the law on accounting as in force at that time shall be fined for not exceeding one hundred thousand Baht or shall be imprisoned for not exceeding one year, or both.

**Section 168**<sup>114</sup> During the period of six months prior to a petition requesting that the debtor be adjudged bankrupt and thereafter but prior to a discharge from bankruptcy, any debtor who leaves or attempts to leave the Kingdom with the property worth more than two hundred Baht, which is required by law to be divided among creditors in payment of debts owed to them, unless it is proven that there is no fraudulent intention, shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both.

**Section 169**<sup>115</sup> When the Court has issued a receivership order, any debtor who conceals himself or has absconded from the place at which he last lived or operated his trade or business or has left the Kingdom with intention to avoid warrants or appointments of the Court in a bankruptcy case or to avoid any inquiry or interrogation in connection with his business or property or causing difficulty in or impediment to bankruptcy proceedings shall be fined for not exceeding one hundred thousand Baht or shall be imprisoned for not exceeding one year, or both.

**Section 170**<sup>116</sup> When the Court has issued a receivership order, any debtor who commits any fraud or gives or promises or agrees to give any benefit to a creditor with an aim to obtain such creditor's consent to the composition or any agreement relating to his business or bankruptcy or with an aim to prevent an objection to a request for discharge from bankruptcy, shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both.

---

<sup>109</sup> Section 163 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>110</sup> Section 164 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>111</sup> Section 165 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>112</sup> Section 166 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>113</sup> Section 167 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>114</sup> Section 168 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>115</sup> Section 169 has been amended by the Bankruptcy Act (No.8) B.E.2558.

**Section 171**<sup>117</sup> Any creditor or any creditor's representative who makes an allegation or applies for receipt of debt payment in a bankruptcy case or for composition or agreement relating to the debtor's property with material false statements, unless it is proven that there is no fraudulent intention, shall be fined for not exceeding two hundred thousand Baht or shall be imprisoned for not exceeding two years, or both.

**Section 172** Any creditor or any creditor's representative who demands, accepts or agrees to accept property, security or any other benefits for his own benefit or for the benefit of any other person in return for his giving of consent to or refraining from making an objection to a composition or a discharge from bankruptcy, shall be fined for not exceeding five times of the value of such undue benefits.

**Section 173** Any person who, with the knowledge of the receivership order or the potential receivership order, diverts, conceals, takes, disposes of or manages the debtor's property in bad faith, shall be fined for not exceeding two times of the value of such property or shall be imprisoned for not exceeding two years, or both.

For the purpose of this Section, it shall be presumed that when the Receiver had published a receivership order in the Government Gazette and in a daily newspaper, every person was informed of such order.

**Section 174**<sup>118</sup> Any person who makes a false allegation that he is the creditor, with an aim to examine or obtain a copy of any document relating to bankruptcy proceedings, shall be fined for not exceeding five thousand Baht.

**Section 175** Any of the following persons shall have the same duties and criminal liabilities as those imposed on the debtor for transactions done by him at the time of his operation of the debtor's affairs:

- (1) If the debtor is a registered ordinary partnership or a limited partnership, a managing partner or a partner intervening the management of the affairs or an auditor of such partnership;
- (2) If the debtor is a limited company, a promoter, a director, a worker, an employee or an auditor of such company;
- (3) If the debtor is any juristic person other than those in (1) and (2), a director or an auditor of such juristic person;
- (4) If the debtor carries out through an agent or through an employee, such agent or employee of the debtor; or

---

<sup>116</sup> Section 170 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>117</sup> Section 171 has been amended by the Bankruptcy Act (No.8) B.E.2558.

<sup>118</sup> Section 174 has been amended by the Bankruptcy Act (No.8) B.E.2558.

(5) If the debtor is deceased, an heir, the administrator of the estates or the controller of property of such debtor.

## CHAPTER 8 MISCELLANEOUS PROVISIONS

---

### PART 1 ACCRUED AMOUNTS

---

**Section 176** When the Receiver has finally divided the property, the Receiver shall, if there is any accrued amount, which has not been picked up by anyone within the time limit of five years as from the date of the Court's order for closure of the case, publish the same in at least one daily newspaper instructing creditors to take receipt thereof within the time limit of two months, if not, such money shall be devolved on the State.

### PART 2 BANKRUPTCY RELATING TO FOREIGN TRANSACTIONS

---

**Section 177** The receivership or bankruptcy under this Act has effects on the debtor's property throughout and only in the Kingdom.

The receivership or bankruptcy under the law of any other country has no effect on the debtor's property located in the Kingdom.

**Section 178** A foreign creditor domiciled outside the Kingdom may apply for receipt of debt payment in a bankruptcy case, only when the following conditions have been complied with:

- (1) Such foreign creditor shall prove that creditors in Thailand are entitled to apply for receipt of debt payment in a bankruptcy case in a similar manner under the law and in the Court of his country;
- (2) Such foreign creditor shall declare that it has received or shall be entitled to receive the property or share from the same debtor's property outside the Kingdom for any particular amount or not, and if any, such foreign creditor shall agree to hand over the property or share from such debtor's property to be included in the estates of the debtor in the Kingdom.

### PART 3 FEES

---

**Section 179**<sup>119</sup> Fees in a bankruptcy case shall be calculated at the rates, as follows:

- (1) The Court's fees for the plaint or petition for bankruptcy adjudication shall be five hundred Baht;

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

(2) The fees for filing an application for receipt of debt payment in a bankruptcy case shall be two hundred Baht, except in the case of an application by a judgment creditor or a creditor applying for receipt of debt payment in the amount of not exceeding fifty thousand Baht;

(3) The Court's fees in the case of an appeal relating to an application for receipt of debt payment shall be two hundred Baht;

(4) The fees for the collection of property shall be calculated at the rate of three percent of the net amount collected, provided that, in respect of the property which is not sold or disposed of, the fees shall be calculated at the rate of two percent of the value of such property and that, in the case of composition, the fees shall be calculated at the rate of three percent of the amount to which the composition relates, whichever is higher.

Any other fees shall be calculated at the same rates as those under the Civil Procedure Code.

**Section 180** If there is a sufficient amount of money, the Receiver shall pay fees and travelling expenses incurred by witnesses and persons summoned to appear for inquiries in accordance with the rates provided in the Civil Procedure Code *mutatis mutandis*.

**Section 181** The printed form which shall be submitted by the debtor to the Receiver under this Act shall be exempted with duty stamps.

Counter-Signature:

Field Marshal Plaek Pibulsongkram

Prime Minister

---

<sup>119</sup> Section 179 has been amended by the Bankruptcy Act (No.7) B.E.2547.

The Bankruptcy Act (No.2) B.E.2511.<sup>120</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Section 12** All bankruptcy cases filed prior to the date of enforcement of this Act and pending in the Court or in the course of operation of the Receiver shall be governed by the bankruptcy laws enforced prior to the date of enforcement of this Act.

**Section 13** The Minister of Justice shall take charge under this Act.

**Note:-** Reason for promulgation of this Act: Since the value of currency for the time being is much different from those in old days; therefore, the amount of debts under the bankruptcy cases to be filed should be adjusted, and the amount of money to be deposited to the Court and certain fees should be properly updated; and whereas, the provisions relating to the petition for revocation of the debtor's actions on the property have not been carefully provided; therefore, it is deemed expedient to make corrections thereof.

The Bankruptcy Act (No.3) B.E.2526.<sup>121</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Section 5** All bankruptcy cases filed prior to the date of enforcement of this Act and pending in the Court or in the course of operation of the Receiver shall be governed by the bankruptcy laws enforced prior to the date of enforcement of this Act.

**Section 6** The Minister of Justice shall take charge under this Act.

**Note:-** Reason for promulgation of this Act: Under the applicable laws, the amount of money that creditors shall be entitled to enter legal actions against the debtor for bankruptcy shall be the debts of not less than thirty thousand Baht and since the Thai currency for the time being has been considerably devalued; therefore, it is deemed expedient to fix new amount of money that creditors shall be entitled to enter legal actions against the debtor for bankruptcy; whereby, the creditors shall be entitled to enter legal actions against the debtor for bankruptcy when the debtor is a natural person and indebted to one or several petitioning creditor(s) for an amount of not less than fifty thousand Baht; or when the debtor is a juristic person and indebted to one or several petitioning creditor(s) for an amount of not less than five hundred thousand Baht; therefore, it is necessary to enact this Act.

---

<sup>120</sup> The Government Gazette, Volume 85, Section 28, Page 191 dated 2<sup>nd</sup> April 1968

<sup>121</sup> The Government Gazette, Volume 100, Section 37/Special Edition, Page 1 dated 16<sup>th</sup> March 1983

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

The Bankruptcy Act (No.4) B.E.2541.<sup>122</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Note:-** Reason for promulgation of this Act: Since the provisions of certain Sections of the Bankruptcy Act B.E.2483 are improper to the current economic and social condition, particularly when the debtors are juristic persons who temporarily encountered the problem of financial liquidity and should receive financial assistance from those who intended to give financial assistance to them so that debtors should have an opportunity for reorganization; but since Section 94(2) of the Bankruptcy Act B.E.2483 was prescribed that creditors who agreed to the incurrence of debts by the debtors, despite knowing that such debtors are insolvent, shall not be entitled to apply for receipt of debt payment in a bankruptcy case; as a result, no financial institution or any private enterprise agreed to give financial assistance to debtors who temporarily encountered the problem of financial liquidity and became bankrupt despite having businesses which could be reorganized if given with financial assistance; therefore, it is expedient to provide provisions which protect the giving of financial assistance to debtors who temporarily encountered the problem of financial liquidity so that debtors should have an opportunity for reorganization and creditors shall be given with an opportunity to receive debt payment in a fair manner. This shall promote prosperous economy and trading of the country; therefore, it is necessary to enact this Act.

The Bankruptcy Act (No.5) B.E.2542.<sup>123</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Section 34** All bankruptcy cases filed prior to the date of enforcement of this Act and pending in the Court or in the course of operation of the Receiver shall be governed by the bankruptcy laws enforced prior to the date of enforcement of this Act.

**Section 35**<sup>124</sup> (Repealed)

**Section 36** The provisions of Section 90/79 of the Bankruptcy Act B.E.2483, amended by the Bankruptcy Act (No.4) B.E.2541, and the provisions of Section 149 and Section 153 of the Bankruptcy Act B.E.2483 before they shall be repealed by this Act, shall continue to be enforced until the opening of the Central Bankruptcy Court as per the Establishment of and Procedure for Bankruptcy Court Act.

**Section 37** The Minister of Justice shall take charge under this Act.

---

<sup>122</sup> The Government Gazette, Volume 115, Section 18A, Page 4 dated 9<sup>th</sup> April 1998

<sup>123</sup> The Government Gazette, Volume 116, Section 29A, Page 31 dated 21<sup>st</sup> April 1999

<sup>124</sup> Section 35 has been repealed by the Bankruptcy Act (No.7) B.E.2547.

**Note:-** Reason for promulgation of this Act: Since the provisions of the Bankruptcy Act currently in force and prescribing the amount of money that creditors shall be entitled to enter legal actions against debtors in a bankruptcy case, including the amount to be given as guarantee of expenses and fees in all steps, and prices of the property exempted from division among creditors, have been enforced for a long time and improper to the current economic and social condition, and it is expedient to amend those provisions for suitability; moreover, the provisions of such laws in connection with the property exempted from division among creditors, and measures for collection and disposal of property prescribed did not cover the husband of the debtors; moreover, the provisions of the Bankruptcy Act relating to the reorganization of the debtor and certain processes of bankruptcy that failed to facilitate the solutions to business operation; therefore, it is expedient to amend the provisions governing the reorganization processes of the debtors relating to the passing of a resolution on acceptance of the reorganization plan, the use of discretion by the Court for approval of the plan, powers of the plan administrator relating to the management of the property of debtors, revision of the provisions relating to the revocation of juristic acts executed in the bankruptcy processes and the reorganization processes. Moreover, the order of preferential rights in bankruptcy cases has been amended by fixing the amount of money that employees shall be entitled to receive for works performed for employer debtors, with the same order of preferential rights with the tax payments; and since the establishment of the Bankruptcy Court for exclusive trial of bankruptcy cases, it is expedient to repeal the provisions of the Bankruptcy Act to be in accordance with the Establishment of and Procedure for Bankruptcy Court Act and to add the provisions of the Constitution which empowered the enactment of laws on limitation of rights and liberties of individuals adopted by the provisions of the Constitution; therefore, it is necessary to enact this Act.

The Bankruptcy Act (No.6) B.E.2543.<sup>125</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Note:-** Reason for promulgation of this Act: Whereas, Section 275 of the Constitution of the Kingdom of Thailand, together with the law governing the court of justice management regulations, prescribing that the Office of the Judiciary shall be an independent administration agency of the Court of Justice, but failing to prescribe that the Legal Execution Department shall be an administration agency of the Court of Justice; therefore, the Legal Execution Department shall still be under the responsibility of the Ministry of Justice; and it is expedient to amend the Bankruptcy Act B.E.2483 relating to the status of the Receiver to be in accordance with the said circumstances; therefore, it is necessary to enact this Act.

The Bankruptcy Act (No.7) B.E.2547.<sup>126</sup>

---

<sup>125</sup> The Government Gazette, Volume 117, Section 103, Page 6 dated 13<sup>th</sup> November 2000

<sup>126</sup> The Government Gazette, Volume 121, Section 44A, Page 1 dated 15<sup>th</sup> July 2004

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Section 13** Natural persons adjudged bankrupt prior to the date of enforcement of this Act and upon expiry of the period of time as prescribed in Section 81/1 of the Bankruptcy Act B.E.2483, as amended by this Act, prior to or on the date of enforcement of this Act, shall be released from bankruptcy.

Persons adjudged bankrupt prior to the date of enforcement of this Act and not having been released from bankruptcy under Paragraph 1 shall be released from bankruptcy under the Bankruptcy Act B.E.2483, as amended by this Act; whereby, such period of time shall be counted as from the date of adjudication for bankruptcy.

**Section 14** The provisions of Section 12 of this Act shall not apply to all bankruptcy cases filed prior to the date of enforcement of this Act; and the provisions of Section 179 of the Bankruptcy Act B.E.2483 which are enforced on the date of litigation shall apply to such cases.

**Section 15** The President of the Supreme Court and the Minister of Justice shall take charge under this Act.

**Note:-** Reason for promulgation of this Act: Whereas, the provisions of the Bankruptcy Act relating to the discharge of debtors from bankruptcy by virtue of the applicable laws are not clear and causing problems relating to the consequences of the discharge from bankruptcy, particularly the management of the property of debtors; however, in principle of the provisions in this connection, it is used as a channel for assistance of the honest bankrupt to be discharged from bankruptcy, it is expedient to maintain the said principle by repealing the original provisions and prescribing additional provisions relating to the discharge from bankruptcy by virtue of laws. Moreover, the applicable provisions prescribing that the bankrupt may file a petition to the Court to issue an order for discharge from bankruptcy are not clear and depending on the Court's discretion in each case; therefore, it is expedient to clearly amend the criteria of the Court for discharge of bankruptcy as guarantee for the bankrupt that after the compliance with the legal provisions, the bankrupt may be discharged from bankruptcy, and for conformity of the applicable provisions relating to the fees in bankruptcy cases with the current economic and social condition, it is expedient to revise them to be more suitable; therefore, it is necessary to enact this Act.

The Bankruptcy Act (No.8) B.E.2558.<sup>127</sup>

---

<sup>127</sup> The Government Gazette, Volume 132, Section 80A, Page 1 dated 26<sup>th</sup> August 2015

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Section 15** All bankruptcy cases filed prior to the date of enforcement of this Act and pending in the Court or in the course of operation of the Receiver shall be governed by the Bankruptcy Act B.E.2483 enforced prior to the date of enforcement of this Act.

**Section 16** The President of the Supreme Court and the Minister of Justice shall take charge under this Act.

**Note:-** Reason for promulgation of this Act: Whereas, there were several processes of consideration of petition for receipt of debt payment in bankruptcy cases, prescribing that the Receiver shall propose petitions for receipt of debt payment to the Court so that the Court shall issue its order for approval of receipt of debt payment, it is expedient to reduce those processes by prescribing that the Receiver shall have power of trial and shall issue orders relating to the petitions for receipt of debt payment for faster consideration of petitions for receipt of debt payment; moreover, it is expedient to prescribe clear details of petitions for composition prior to bankruptcy and to prescribe that creditors who fail to file petitions for receipt of debt payment within the time limit of two months as from the date of publication of the order of absolute receivership, shall be able to file petitions for receipt of debt payment in case of force majeure and to revise the stipulated penalties to be proper to the current economic and social condition; therefore, it is necessary to enact this Act.

The Bankruptcy Act (No.9) B.E.2559.<sup>128</sup>

**Section 2** This Act shall come into force as from the date following the date of publication in the Government Gazette onwards.

**Note:-** Reason for promulgation of this Act: Whereas, the procedures relating to the reorganization of the debtors fail to cover debtors operating small and medium enterprises, including natural persons, body of persons, unregistered ordinary partnership, juristic ordinary partnership, limited partnership or limited companies enormously existing in the current economic system and temporarily encountering problems of lack of financial liquidity; therefore, to provide insolvent debtors with opportunity of reorganization and not to become the bankrupt in case of having channels for reorganization; therefore, it is necessary to enact this Act.

---

<sup>128</sup> The Government Gazette, Volume 133, Section 46A, Page 24 dated 24<sup>th</sup> May 2016

Prepared by: Sanchai  
12<sup>th</sup> December 1998

Corrected by: Vasin  
18<sup>th</sup> November 2013

Revised by: Nusara  
2<sup>nd</sup> September 2015

Added by: Visanee  
25<sup>th</sup> May 2016

Office of Justice Affairs

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF JUSTICE AFFAIRS SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITY ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE