



UNDANG-UNDANG MALAYSIA

Akta A1534

AKTA KEBANKRAPAN (PINDAAN) 2017

Tarikh Perkenan Diraja 10 Mei 2017

Tarikh penyiaran dalam *Warta* 18 Mei 2017

Hakcipta Pencetak (H)

PERCETAKAN NASIONAL MALAYSIA BERHAD

Semua Hak Terpelihara. Tiada mana-mana bahagian jua daripada penerbitan ini boleh diterbitkan semula atau disimpan di dalam bentuk yang boleh diperolehi semula atau disiarkan dalam sebarang bentuk dengan apa jua cara elektronik, mekanikal, fotokopi, rakaman dan/atau sebaliknya tanpa mendapat izin daripada **Percetakan Nasional Malaysia Berhad (Pencetak kepada Kerajaan Malaysia yang dilantik)**.

UNDANG-UNDANG MALAYSIA

Akta A1534

AKTA KEBANKRAPAN (PINDAAN) 2017

Suatu Akta untuk meminda Akta Kebankrapan 1967.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Kebankrapan (Pindaan) 2017.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta* dan Menteri boleh menetapkan tarikh yang berlainan bagi permulaan kuat kuasa peruntukan yang berlainan Akta ini.

Penggantian tajuk panjang

2. Akta Kebankrapan 1967 [*Akta 360*], yang disebut “Akta ibu” dalam Akta ini, dipinda dengan menggantikan tajuk panjang dengan tajuk panjang yang berikut:

“An Act relating to the insolvency and bankruptcy of an individual and a firm and for connected matters.”.

Pindaan am**3. Akta ibu dipinda—**

- (a) dengan menggantikan perkataan “receiving”, di mana-mana jua terdapat dalam seksyen 4, 10, 13, 17, 40, 41, 43, 44, 50, 51, 54, 73, 84, 93, 100, 110, 111, 112, 113, 115, 121, 122 dan 125, Jadual A dan Jadual C, dengan perkataan “bankruptcy”; dan
- (b) dengan menggantikan perkataan “debtor”, di mana-mana jua terdapat dalam seksyen 17, 71, 115, 116 dan 118, Jadual A dan Jadual C, dengan perkataan “bankrupt”.

Pindaan seksyen 1

4. Subseksyen 1(1) Akta ibu dipinda dengan menggantikan perkataan “Bankruptcy” dengan perkataan “Insolvency”.

Sebutan mengenai Akta Kebankrapan 1967

5. Segala sebutan mengenai Akta Kebankrapan 1967 dalam mana-mana undang-undang bertulis atau dokumen hendaklah, apabila Akta ini mula berkuat kuasa, ditafsirkan sebagai sebutan mengenai Akta Insolvensi 1967.

Pindaan seksyen 2**6. Seksyen 2 Akta ibu dipinda—**

- (a) dalam takrif “available act of bankruptcy”, dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (b) dengan menggantikan takrif “bankruptcy petition” dengan takrif yang berikut:
 - ‘ “bankruptcy petition” means a creditor’s petition or a debtor’s petition for bankruptcy;’;
- (c) dengan memotong takrif “deed of arrangement”;

(d) dengan memasukkan selepas takrif “ordinary resolution” takrif yang berikut:

‘ “prescribed” means prescribed by the Minister by rules made under this Act;’; dan

(e) dalam takrif “special resolution”, dengan memasukkan selepas perkataan “meeting of creditors” perkataan “, or in writing,”.

Pindaan kepala Bahagian I

7. Akta ibu dipinda dengan menggantikan kepala Bahagian I dengan kepala yang berikut:

“VOLUNTARY ARRANGEMENT AND PROCEEDINGS IN BANKRUPTCY”.

Seksyen baharu 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K, 2L, 2M, 2N, 2O, 2P dan 2Q

8. Akta ibu dipinda dengan memasukkan selepas kepala Bahagian I seksyen yang berikut:

“Voluntary Arrangement

Voluntary arrangement

2A. For the purposes of sections 2A to 2Q, “voluntary arrangement” means a composition in satisfaction of a debtor’s debt or a scheme of arrangement of a debtor’s affairs.

Non-application

2B. Sections 2A to 2Q shall not apply to an undischarged bankrupt and a limited liability partnership within the meaning of the Limited Liability Partnerships Act 2012 [*Act 743*].

Intention to propose voluntary arrangement

2c. (1) A debtor may propose a voluntary arrangement to his creditors at any time before he is adjudged bankrupt.

(2) A debtor who intends to propose a voluntary arrangement shall—

- (a) appoint a nominee to act in relation to the voluntary arrangement or for the purpose of supervising the implementation of the voluntary arrangement; and
- (b) make an application as prescribed to the court for an interim order of voluntary arrangement and submit a copy of the application to the Director General of Insolvency.

(3) A firm shall not propose to his creditors a voluntary arrangement, unless the firm or a partner of the firm has obtained the consent from all or majority of the partners to enter into a voluntary arrangement.

Interim order

2D. (1) Upon receiving the application referred to in paragraph 2C(2)(b), the court shall make an interim order for voluntary arrangement.

(2) Before the making of an interim order under subsection (1), the court shall satisfy itself that—

- (a) during the period of twelve months immediately preceding the date of the filing of such application, no previous application has been filed by the debtor; and
- (b) the nominee appointed under paragraph 2C(2)(a) is willing to act in relation to the proposal.

(3) An interim order referred to in subsection (1) shall be valid for a period of ninety days from the date the order is made and such period shall not be extended.

(4) The debtor shall notify the nominee the commencement date of the period within seven days from the date of the interim order.

(5) After being notified under subsection (4), the nominee shall, within seven days from such notification, notify all of the debtor's creditors of the fact of the commencement of the interim order.

Effect of interim order

2E. An interim order made under subsection 2D(1) shall have the following effects:

- (a) no bankruptcy petition may be made or proceeded with against the debtor; and
- (b) no other proceedings, execution or other legal process may be commenced or continued against the debtor without leave of the court.

Nominee

2F. (1) No person shall act as a nominee unless he is registered with the Director General of Insolvency.

(2) Notwithstanding subsection (1), an officer of a body corporate established under the Central Bank of Malaysia Act 2009 [*Act 701*] for the purposes of providing financial counselling, debt management services and education on financial management may act as a nominee but is not required to register with the Director General of Insolvency under subsection (1).

(3) The nominee shall have the powers and duties as prescribed.

Registration of nominee

2G. (1) For the purposes of subsection 2F(1), the Director General of Insolvency may approve an application for registration of a nominee subject to the following conditions:

- (a) the applicant is—
 - (i) a registered chartered accountant under the Accountants Act 1967 [*Act 94*];

- (ii) an advocate and solicitor; or
 - (iii) such other person as the Minister may, on the recommendation of the Director General of Insolvency, prescribe by order published in the *Gazette*;
- (b) the applicant is not an undischarged bankrupt;
- (c) the applicant does not assign his estate for the benefit of his creditors or is not under a voluntary arrangement with his creditors;
- (d) the applicant has not been convicted in Malaysia or elsewhere of a criminal offence as would render him unfit to be a nominee under this Part, and in particular, but not limited to, an offence involving fraud or dishonesty; and
- (e) the applicant is not suffering from any mental disorder under the Mental Health Act 2001 [*Act 615*].
- (2) The Minister may prescribe the procedures and fees for the registration of nominees.
- (3) Any person who acts as a nominee without being registered with the Director General of Insolvency shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand ringgit or to both.
- (4) Any person who continues to act as a nominee after the expiry of his registration as nominee shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding five thousand ringgit or to both.

Register of nominees

2H. The Director General of Insolvency shall keep and maintain a register of nominees registered under section 2G.

Meeting of creditors to approve debtor's proposal

21. (1) Where an interim order has been made, the nominee shall, before the expiry of the interim order referred to in subsection 2D(3), summon every of the debtor's creditor to a meeting by giving a prescribed notice to such creditors as to approve the debtor's proposal for a voluntary arrangement.

(2) For the purposes of enabling the nominee to prepare the debtor's proposal, the debtor shall submit to the nominee—

(a) where the debtor is an individual, a statement of his affairs which contains—

(i) the particulars of the debtor's assets, creditors, debts and other liabilities; and

(ii) such other information as may be prescribed;
or

(b) where the debtor is a firm, a statement of the firm's affairs which contains—

(i) the particulars of the assets, creditors, debts and other liabilities of the firm and of each partner of the firm; and

(ii) such other information as may be prescribed.

(3) The meeting summoned under subsection (1) or any subsequent meeting may, by special resolution, resolve to approve the proposed voluntary arrangement with or without modification but—

(a) no modification shall be made to alter the proposal to such extent that the proposal ceases to be a proposal for a voluntary arrangement by the debtor;

(b) the meeting shall not approve the proposed voluntary arrangement with any modification unless the debtor has consented to such modification;

- (c) the meeting shall not approve any proposal or any modification to the proposal which affects the right of a secured creditor of the debtor to enforce his security, except with the concurrence of the secured creditor concerned; and
- (d) the meeting shall not, without the concurrence of the preferential creditor concerned, approve any proposal or any modification to the proposal under which—
 - (i) any debt of the debtor, not being a preferential debt, is to be paid in priority to any preferential debt of the debtor; or
 - (ii) any preferential debt of the debtor is to be paid in relation to any other preferential debt of the debtor other than in accordance with section 43.

(4) Every meeting shall be conducted in accordance with the prescribed rules.

(5) Any debtor who makes any false representation or commits any other fraud for the purpose of obtaining the approval of his creditors to a proposal for a voluntary arrangement shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand ringgit or to both.

Report of decisions to court

2J. (1) After the conclusion of the meeting of creditors summoned under section 2I, the nominee shall, as soon as may be, report the decision of the meeting to the court and serve a copy of the report containing the terms of the voluntary arrangement under the seal of the court to the debtor and creditors.

(2) Where the meeting of creditors has declined to approve the debtor's proposal, the court may set aside any interim order which is in force in relation to the debtor.

Effect of approval

2K. (1) Where the meeting of creditors summoned under section 2I has approved the proposed voluntary arrangement with or without modifications, the approved voluntary arrangement shall—

(a) take effect as if made by the debtor at the meeting; and

(b) bind every person who had notice of and was entitled to vote at the meeting, whether or not he was present or represented at the meeting, as if he were a party to the arrangement.

(2) Subject to section 2L, the interim order in force in relation to the debtor shall cease to have effect at the end of thirty days from the date the report was sealed by the court under section 2J.

(3) Where proceedings on a bankruptcy petition have been stayed by an interim order which ceases to have effect under subsection (2), that petition shall be deemed to have been dismissed, unless the court orders otherwise.

(4) During the effective period of a voluntary arrangement, the debtor shall not enter into a credit facility, unless all the creditors in the voluntary arrangement agree and the person giving the credit is informed that the debtor has entered into a voluntary arrangement under this Act.

Review of meeting's decision

2L. (1) Any debtor, nominee or person entitled to vote at a meeting of creditors summoned under section 2I may apply to the court for a review of the decision of the meeting on the ground that—

(a) the voluntary arrangement approved by the meeting unfairly prejudices the interests of the debtor or any of the debtor's creditors; or

(b) there has been some material irregularity at or in relation to the meeting.

(2) Upon hearing an application under subsection (1), the court may—

(a) revoke or suspend any approval given by the meeting;
or

(b) direct any person to summon further meeting of the debtor's creditors to consider any revised proposal the debtor may make or, in a case falling under paragraph (1)(b), to reconsider the original proposal of the debtor.

(3) No application under this section shall be made after thirty days the decision of the meeting of creditors is reported to the court under section 2J.

(4) Where at any time after giving the direction under paragraph (2)(b) the court is satisfied that the debtor does not intend to submit a revised proposal, the court shall revoke the direction and revoke or suspend any approval given at the previous meeting.

(5) Upon giving a direction under paragraph (2)(b), the court may extend the validity of any interim order in relation to the debtor for such period not exceeding thirty days.

(6) Upon giving a direction or revoking or suspending an approval under this section, the court may give such supplemental directions as the court thinks fit and, in particular, directions with respect to—

(a) things done since the meeting under any voluntary arrangement approved by the meeting; and

(b) things done since the meeting as could not have been done if an interim order had been in force in relation to the debtor when the things were done.

(7) Except in pursuance of this section, no approval given at a meeting of creditors summoned under section 2I shall be invalidated by reason only of any irregularity at or in relation to the meeting.

Replacement of nominee before voluntary arrangement concludes

2M. (1) The debtor may, at any time before the voluntary arrangement is concluded, replace the nominee with another nominee.

(2) Where a nominee is replaced under this section, an interim order made under subsection 2D(1) shall continue to have effect and the validity period of the interim order referred to in subsection 2D(3) shall not be extended notwithstanding such replacement.

(3) A nominee who replaces another nominee shall have all the powers of the previous nominee and shall continue to carry out the duties of the previous nominee and the previous nominee shall give such assistance as may be required.

Implementation and supervision of approved voluntary arrangement

2N. (1) Where a voluntary arrangement approved by a meeting of creditors summoned under section 2I has taken effect, the nominee shall supervise the implementation of the voluntary arrangement.

(2) If the debtor or any of his creditors is dissatisfied by any act, omission or decision of the nominee in his supervision of the implementation of the voluntary arrangement, the debtor or creditor may apply to the court to review that act, omission or decision.

(3) Upon hearing of an application under subsection (2), the court may—

- (a) confirm, reverse or modify any act or decision of the nominee; or
- (b) give such directions to the nominee or make such order as the court thinks fit.

(4) The nominee may apply to the court for directions in relation to any particular matter arising under the voluntary arrangement.

(5) If—

- (a) it is expedient to appoint a person to carry out the functions of the nominee; and
- (b) it is inexpedient, difficult or impracticable for such an appointment to be made without the assistance of the court,

the court may make an order appointing a person who is qualified to act as a nominee, either in substitution for the existing nominee or to fill a vacancy.

Consequence of failure by debtor to comply with voluntary arrangement

2o. (1) Where a debtor fails to comply with any of his obligations under a voluntary arrangement, any creditor bound by the voluntary arrangement may file or proceed with a bankruptcy petition against the debtor.

(2) For the purposes of commencing or proceeding with the bankruptcy petition against the debtor, the amount of debt specified in the petition shall deduct any amount of debts that has been settled during voluntary arrangement.

Cessation of voluntary arrangement

2p. A voluntary arrangement under this Act shall cease upon the death of the debtor.

Fees of nominee

2q. The Minister may prescribe the scale of fees to be charged by nominees in respect of voluntary arrangement.”.

Pindaan seksyen 3

9. Seksyen 3 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan memotong perenggan (h);
- (b) dalam subseksyen (2), dengan menggantikan perkataan “in the prescribed manner” dengan perkataan “personally to a debtor”; dan
- (c) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(2A) Notwithstanding subsection (2), the court may make an order for substituted service of a bankruptcy notice as prescribed if the creditor can prove to the satisfaction of the court that the debtor, with intent to defeat, delay or evade personal service—

- (a) departs out of Malaysia or being out of Malaysia remains out of Malaysia; or
- (b) departs from his dwelling house or otherwise absents himself, or secludes himself in his house or closes his place of business.

(2B) An application for an order for substituted service shall state the facts on which the application is founded.

(2C) A substituted service of a bankruptcy notice, in relation to which an order is made under this section, is effected by taking such steps as the court may direct to bring the bankruptcy notice to the person to be served.”.

Pindaan subkepala

10. Akta ibu dipinda dengan menggantikan subkepala “*Receiving Order*” yang terdapat sebelum seksyen 4 dengan subkepala yang berikut:

“*Bankruptcy Order*”.

Penggantian seksyen 4

11. Akta ibu dipinda dengan menggantikan seksyen 4 dengan seksyen yang berikut:

“Bankruptcy order

4. The court may, on a bankruptcy petition being presented by a creditor under section 6 or by a debtor under section 7, make a bankruptcy order.”.

Pindaan seksyen 5

12. Seksyen 5 Akta ibu dipinda—

(a) dalam perenggan (1)(a), dengan menggantikan perkataan “thirty” dengan perkataan “fifty”;

(b) dengan menggantikan subseksyen (3) dengan subseksyen yang berikut:

“(3) A petitioning creditor shall not be entitled to commence any bankruptcy action—

(a) against a social guarantor; and

(b) against a guarantor other than a social guarantor unless the petitioning creditor has obtained leave from the court.”; dan

(c) dengan memasukkan selepas subseksyen (3) subseksyen yang berikut:

“(4) Before granting leave referred to in paragraph (3)(b), the court shall satisfy itself that the petitioning creditor has exhausted all modes of execution and enforcement to recover debts owed to him by the debtor.

(5) Where the petition is presented against a guarantor pursuant to subsection (4), a petitioning creditor shall state in his petition the particulars of his borrower.

(6) For the purposes of subsection (4), modes of execution and enforcement include seizure and sale, judgment debtor summon, garnishment and bankruptcy or winding up proceedings against the borrower.

(7) If the petitioning creditor fails to comply with the requirements of this section, the court shall dismiss the petition.”.

Pindaan seksyen 6

13. Seksyen 6 Akta ibu dipinda—

(a) dengan menggantikan perkataan “as prescribed” dengan perkataan “personally to a debtor”;

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) Notwithstanding subsection (2), the court may make an order for substituted service of a creditor’s petition as prescribed if the creditor can prove to the satisfaction of the court that the debtor, with intent to defeat, delay or evade personal service—

(a) departs out of Malaysia or being out of Malaysia remains out of Malaysia; or

(b) departs from his dwelling house or otherwise absents himself, or secludes himself in his house or closes his place of business.

(1B) An application for an order for substituted service shall state the facts on which the application is founded.

(1C) A substituted service of a creditor’s petition, in relation to which an order is made under this section, is effected by taking such steps as the court may direct to bring the creditor’s petition to the person to be served.”; dan

- (c) dalam subseksyen (2) dan (6), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”.

Pindaan seksyen 7

14. Seksyen 7 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”; dan
- (b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) Where a debtor’s petition is presented on behalf of a firm in the firm’s name, the court shall not adjudge a person who is a member of the firm bankrupt unless such person is proved to the satisfaction of the court to be a partner by his admission or by evidence on oath.”.

Pindaan seksyen 8

15. Seksyen 8 Akta ibu dipinda—

- (a) dengan menggantikan perkataan “receiving” di mana-mana jua terdapat dengan perkataan “bankruptcy”;
- (b) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) On the making of a bankruptcy order—

- (a) except as provided by this Act, no creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the bankrupt in respect of the debt, or shall proceed with or commence any action or other legal proceeding in respect of such debt unless with the leave of the court and on such terms as the court may impose; and

(b) all the property of the bankrupt shall become divisible among his creditors and shall vest in the Director General of Insolvency and the Director General of Insolvency shall be the receiver, manager, administrator and trustee of all properties of the bankrupt.”; dan

(c) dalam subseksyen (2A), dengan menggantikan perkataan “six” dengan perkataan “twelve”.

Pemotongan seksyen 9

16. Akta ibu dipinda dengan memotong seksyen 9.

Pindaan seksyen 12

17. Seksyen 12 Akta ibu dipinda—

(a) dalam subseksyen (1), dengan menggantikan perkataan “thereof accordingly to act until the first meeting of creditors,” dengan perkataan “to act accordingly”; dan

(b) dengan memotong subseksyen (2).

Pemotongan seksyen 14

18. Akta ibu dipinda dengan memotong seksyen 14.

Penggantian subkepala

19. Akta ibu dipinda dengan menggantikan subkepala “*Proceedings consequent on Receiving Order*” yang terdapat sebelum seksyen 15 dengan subkepala yang berikut:

“*Proceedings Consequent on Bankruptcy Order*”.

Pindaan seksyen 15**20.** Seksyen 15 Akta ibu dipinda—

(a) dalam subseksyen (1)—

- (i) dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (ii) dengan memotong perkataan “, or whether it is expedient that the debtor be adjudged bankrupt,”; dan
- (iii) dengan menggantikan perkataan “debtor’s” dengan perkataan “bankrupt’s”; dan

(b) dalam subseksyen (1A), dengan menggantikan perkataan “debtor” dengan perkataan “bankrupt”.

Pindaan seksyen 16**21.** Seksyen 16 Akta ibu dipinda—

(a) dalam nota bahu, dengan menggantikan perkataan “**Debtor’s**” dengan perkataan “**Bankrupt’s**”;

(b) dalam subseksyen (1)—

- (i) dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”; dan
- (ii) dengan menggantikan perkataan “debtor’s assets” dengan perkataan “his assets”; dan

(c) dalam subseksyen (3)—

- (i) dengan menggantikan perkataan “debtor” dengan perkataan “bankrupt”; dan
- (ii) dengan memotong perkataan “, and the court may on the application of the Director General of Insolvency or of any creditor adjudge him bankrupt”.

Pindaan subkepala

22. Akta ibu dipinda dengan menggantikan subkepala “*Public Examination of Debtor*” yang terdapat sebelum seksyen 17 dengan subkepala yang berikut:

“Public Examination of Bankrupt”.

Pindaan seksyen 17

23. Seksyen 17 Akta ibu dipinda—

- (a) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”;
- (b) dengan menggantikan perkataan “receiving” di mana-mana jua terdapat dengan perkataan “bankruptcy”; dan
- (c) dalam subseksyen (2), dengan menggantikan perkataan “debtor’s” dengan perkataan “bankrupt’s”.

Pindaan seksyen 18

24. Akta ibu dipinda—

- (a) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”;
- (b) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) Where a debtor is adjudged bankrupt, the creditors may, at any time after the adjudication by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to the creditor under the bankruptcy, or for a scheme of arrangement of the bankrupt’s affairs.”;

- (c) dalam subseksyen (2), dengan menggantikan perkataan “resolution passed by a majority in number, representing at least three-fourths in value of all the creditors who have proved,” dengan perkataan “special resolution”;

(d) dalam subseksyen (4), dengan memotong perkataan “and shall not be held until after the public examination of the debtor is concluded”;

(e) dengan memasukkan selepas subseksyen (10) subseksyen yang berikut:

“(10A) If the court approves the composition or scheme under this section, the court may make an order annulling the bankruptcy order and vesting the property of the bankrupt in the bankrupt or in such other person as the court appoints, on such terms and subject to such conditions, if any, as the court orders.”; dan

(f) dengan memotong subseksyen (12), (16), (17) dan (19).

Pemotongan seksyen 19, 20, 21, 22 dan 23

25. Akta ibu dipinda dengan memotong seksyen 19, 20, 21, 22 dan 23.

Penggantian subkepala

26. Akta ibu dipinda dengan menggantikan subkepala “*Adjudication of Bankruptcy*” yang terdapat sebelum seksyen 24 dengan subkepala yang berikut:

“*Consultative Committee*”.

Pemotongan seksyen 24 dan 26

27. Akta ibu dipinda dengan memotong seksyen 24 dan 26.

Pindaan seksyen 27

28. Seksyen 27 Akta ibu dipinda—

(a) dalam nota bahu, dengan menggantikan perkataan “**debtor**” dengan perkataan “**bankrupt**”;

- (b) dalam subseksyen (1), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (c) dalam subseksyen (2), dengan menggantikan perkataan “He” dengan perkataan “A bankrupt”;
- (d) dalam subseksyen (3), dengan menggantikan perkataan “He shall, if adjudged bankrupt,” dengan perkataan “A bankrupt shall”; dan
- (e) dalam subseksyen (4), dengan menggantikan perkataan “debtor” dengan perkataan “bankrupt”.

Pindaan seksyen 28

29. Perenggan 28(1)(c) Akta ibu dipinda dengan memotong perkataan “or after a receiving order is made against him”.

Pindaan seksyen 29

30. Subseksyen 29(2) Akta ibu dipinda dengan memotong perkataan “or under section 9”.

Penggantian seksyen 30

31. Akta ibu dipinda dengan menggantikan seksyen 30 dengan seksyen yang berikut:

“Redirection of letters

30. Where a debtor has been adjudged bankrupt, the court, on the application of the Director General of Insolvency, may order that for a period not exceeding three months letters posted to the bankrupt at any place mentioned in the order for redirection be redirected, sent or delivered by the postal authorities to the Director General of Insolvency or otherwise as the court directs, and the same shall be done accordingly.”.

Pindaan seksyen 31**32.** Seksyen 31 Akta ibu dipinda—

- (a) dalam nota bahu, dengan menggantikan perkataan “**debtor’s**” dengan perkataan “**bankrupt’s**”;
- (b) dalam subseksyen (1), dengan menggantikan perkataan “after a receiving order has been made against a debtor” dengan perkataan “after a debtor has been adjudged bankrupt”; dan
- (c) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”.

Pindaan seksyen 32**33.** Seksyen 32 Akta ibu dipinda—

- (a) dalam subseksyen (1)—
 - (i) dengan menggantikan perkataan “receiving order has been made against a debtor” dengan perkataan “debtor has been adjudged bankrupt”; dan
 - (ii) dengan menggantikan perkataan “the debtor” dengan perkataan “the bankrupt”; dan
- (b) dalam subseksyen (2), dengan menggantikan perkataan “the debtor” dengan perkataan “the bankrupt”.

Pindaan seksyen 33**34.** Seksyen 33 Akta ibu dipinda—

- (a) dalam subseksyen (6), dengan menggantikan perkataan “receiving” di mana-mana jua terdapat dengan perkataan “bankruptcy”; dan

(b) dalam subseksyen (12)—

- (i) dalam perenggan (a), dengan menggantikan perkataan “adjudication” dengan perkataan “bankruptcy order”; dan
- (ii) dalam perenggan (d), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”.

Pindaan seksyen 33A

35. Subseksyen 33A(2) Akta ibu dipinda dengan menggantikan perkataan “the receiving order and the order by which he was adjudged bankrupt were made” dengan perkataan “of the bankruptcy order”.

Pindaan seksyen 33B

36. Seksyen 33B Akta ibu dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(2A) Notwithstanding subsection (2), no objection shall be made against—

- (a) a bankrupt who was adjudged bankrupt by reason of him being a social guarantor;
- (b) a bankrupt who is registered as a person with disability under the Persons with Disabilities Act 2008 [*Act 685*];
- (c) a deceased bankrupt; and
- (d) a bankrupt suffering from a serious illness certified by a Government Medical Officer.”.

Seksyen baharu 33c

37. Akta ibu dipinda dengan memasukkan selepas seksyen 33B seksyen yang berikut:

“Automatic discharge

33c. (1) A bankrupt shall be discharged from bankruptcy under this section on the expiration of three years from the date of the submission of the statement of affairs under subsection 16(1)—

- (a) if the bankrupt has achieved amount of target contribution of his provable debt; and
- (b) if the bankrupt has complied with the requirement to render an account of moneys and property to the Director General of Insolvency under paragraph 38(1)(b).

(2) Contribution of the bankrupt’s provable debt referred to in paragraph (1)(a) shall be determined by the Director General of Insolvency and the Director General of Insolvency shall take into account—

- (a) the provable debt of the bankrupt;
- (b) the current monthly income of the bankrupt;
- (c) the extent to which the current monthly income of the bankrupt’s spouse may contribute to the maintenance of the bankrupt’s family;
- (d) the monthly income that the bankrupt may reasonably be expected to earn over the duration of the bankruptcy, taking into account—
 - (i) the previous and current monthly income of the bankrupt;

- (ii) the educational and vocational qualifications, age and work experience of the bankrupt;
 - (iii) the range of monthly income earned by persons who are employed in occupations, positions or roles similar to that in which the bankrupt is, or can be expected to be, employed;
 - (iv) the effect which the bankruptcy may have on the bankrupt's earning capacity or other income;
 - (v) the prevailing economic conditions; and
 - (vi) the period of time during which the bankrupt is likely to be capable of earning a meaningful income;
- (e) the reasonable expenses for the maintenance of the bankrupt and the bankrupt's family; or
- (f) the property of the bankrupt under paragraph 48(1)(b) which may be realized during the period of three years.

(3) For the purposes of a discharge under this section, the Director General of Insolvency shall serve a notice of the discharge to each of his creditors not less than six months before the expiration of the period referred to in subsection (1), but such notice shall not be served earlier than a year before the expiration of such period.

(4) A creditor who wishes to object to the discharge under this section shall, within twenty-one days from the date the notice in subsection (3) is served on him, make an application as prescribed to the court for an order to suspend the discharge under this section, but no objection shall be made except on the following grounds:

- (a) that the bankrupt has committed any offence under this Act or under section 421, 422, 423 or 424 of the Penal Code;
- (b) that the discharge under this section would prejudice the administration of the bankrupt's estate; or

(c) that the bankrupt has failed to co-operate in the administration of estate.

(5) A creditor who fails to file an application in accordance with subsection (4) is deemed to have no objection to the discharge.

(6) A notice of application under subsection (4) shall be served on the Director General of Insolvency and the bankrupt at least fourteen days before the date of hearing of the application and the court shall hear the Director General of Insolvency and the bankrupt before making an order on the application.

(7) Upon an application made under subsection (4), the court may, if it thinks just and expedient—

(a) dismiss the application and approve the discharge under this section; or

(b) suspend the discharge under this section for a period of two years.

(8) Where the court makes an order under paragraph (7)(b), the bankrupt shall—

(a) continue to fulfil his duties and obligations under this Act during that period; and

(b) be discharged automatically at the end of the two years' period.

(9) The Director General of Insolvency shall, upon the application of any interested person and payment of the prescribed fee, issue a certificate of automatic discharge to the applicant—

(a) upon the making of an order under paragraph (7)(a); or

(b) where there is no objection under subsection (4), on the expiration of the period referred to in paragraph (1)(a).”.

Pindaan seksyen 36

38. Perenggan 36(2)(a) Akta ibu dipinda dengan menggantikan perkataan “adjudication of bankruptcy” dengan perkataan “bankruptcy order”.

Pindaan seksyen 38

39. Seksyen 38 Akta ibu dipinda dengan menggantikan nota bahu dengan nota bahu yang berikut:

“Duties and disabilities of bankrupt”.

Pindaan seksyen 45

40. Seksyen 45 Akta ibu dipinda—

(a) dalam subseksyen (1), dengan menggantikan perkataan “order of adjudication” dengan perkataan “bankruptcy order”; dan

(b) dalam subseksyen (2), dengan menggantikan perkataan “order of adjudication” dengan perkataan “bankruptcy order”.

Pindaan seksyen 47

41. Seksyen 47 Akta ibu dipinda—

(a) dalam subseksyen (1), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”; dan

(b) dalam subseksyen (2), dengan menggantikan perkataan “, receiving order or adjudication” dengan perkataan “or bankruptcy order”.

Pindaan seksyen 49**42.** Seksyen 49 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (b) dalam subseksyen (2)—
 - (i) dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”; dan
 - (ii) dengan memotong perkataan “being followed by an order adjudging him bankrupt,”; dan
- (c) dalam subseksyen (3), dengan menggantikan perkataan “an order of adjudication” dengan perkataan “a bankruptcy order”.

Pindaan seksyen 55

43. Subseksyen 55(1) Akta ibu dipinda dengan menggantikan perkataan “the adjudication” dengan perkataan “a bankruptcy order has been made”.

Pindaan seksyen 62

44. Subseksyen 62(2) Akta ibu dipinda dengan menggantikan perkataan “adjudication” dengan perkataan “bankruptcy order has been made”.

Pindaan seksyen 72**45.** Seksyen 72 Akta ibu dipinda—

- (a) dalam nota bahu, dengan menggantikan perkataan “**debtor’s**” dengan perkataan “**bankrupt’s**”; dan
- (b) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”.

Pindaan seksyen 73

46. Seksyen 73 Akta ibu dipinda—

- (a) dengan menggantikan perkataan “debtor’s” di mana-mana jua terdapat dengan perkataan “bankrupt’s”;
- (b) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”; dan
- (c) dalam perenggan (1)(f), dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”.

Pindaan seksyen 77

47. Seksyen 77 Akta ibu dipinda dengan menggantikan perkataan “Consolidated” di mana-mana jua terdapat dengan perkataan “Insolvency Assistance”.

Seksyen baharu 77A

48. Akta ibu dipinda dengan memasukkan selepas seksyen 77 seksyen yang berikut:

“Insolvency Assistance Fund

77A. (1) A fund to be known as the “Insolvency Assistance Fund” is established and shall be administered and controlled by the Director General of Insolvency.

(2) The Fund shall consist of—

- (a) the profit of the investment under section 77; and
- (b) all costs, fees, charges and moneys recovered by the Director General of Insolvency in any proceedings taken under this Act in which moneys from the Fund were applied.

(3) Subject to subsection (4), the Fund may be applied by the Director General of Insolvency for all or any of the following purposes:

- (a) for the payment of all costs, fees and allowances to advocates or other persons in any proceedings on behalf of a bankrupt's estate or to recover assets of the estate;
- (b) for the payment of such costs and fees in the administration of a bankrupt's estate as the Director General of Insolvency may determine;
- (c) for the payment of any expenses to provide an efficient and effective administration of a bankrupt's estate that meets an appropriate standard of service; or
- (d) for such other purposes as may be prescribed.

(4) No moneys from the Fund shall be applied for any proceedings where, in the opinion of the Director General of Insolvency, there is no reasonable ground for taking, defending, continuing or being a party to the proceedings or where there are sufficient moneys for such purpose in the bankrupt's estate.”.

Pindaan seksyen 84A

49. Subseksyen 84A(4) Akta ibu dipinda dengan menggantikan perkataan “debtor's” dengan perkataan “bankrupt's”.

Pindaan seksyen 104

50. Proviso kepada subseksyen 104(4) Akta ibu dipinda dengan menggantikan perkataan “the receiving order has been rescinded or the order of adjudication” dengan perkataan “the bankruptcy order”.

Pindaan seksyen 105

51. Seksyen 105 Akta ibu dipinda—

- (a) dalam nota bahu, dengan menggantikan perkataan “**adjudication**” dengan perkataan “**bankruptcy order**”;
- (b) dalam subseksyen (1), dengan menggantikan perkataan “adjudication” dengan perkataan “bankruptcy order”;
- (c) dalam subseksyen (2) dan (3), dengan menggantikan perkataan “an adjudication” dengan perkataan “a bankruptcy order”; dan
- (d) dengan memotong subseksyen (5).

Pindaan seksyen 106

52. Seksyen 106 Akta ibu dipinda—

- (a) dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (b) dengan menggantikan perkataan “debtor’s” dengan perkataan “bankrupt’s”;
- (c) dengan memotong perenggan (b); dan
- (d) dalam perenggan (d), dengan menggantikan perkataan “debtor” dengan perkataan “bankrupt”.

Pindaan seksyen 108

53. Subseksyen 108(1) Akta ibu dipinda—

- (a) dengan menggantikan perkataan “receiving” dengan perkataan “bankruptcy”;
- (b) dengan menggantikan perkataan “debtor” di mana-mana jua terdapat dengan perkataan “bankrupt”; dan

- (c) dengan menggantikan perkataan “debtor’s” dengan perkataan “bankrupt’s”.

Pindaan seksyen 109

54. Seksyen 109 Akta ibu dipinda—

- (a) dalam subseksyen (1), dengan memotong perkataan “or in respect of whose estate a receiving order has been made under this Act”; dan
- (b) dengan menggantikan perkataan “receiving” di mana-mana jua terdapat dengan perkataan “bankruptcy”.

Pindaan seksyen 114

55. Subseksyen 114(1) Akta ibu dipinda dengan memotong perkataan “or in respect of whose estate a receiving order has been made”.

Pindaan seksyen 134

56. Seksyen 134 Akta ibu dipinda—

- (a) dengan memotong subseksyen (1) dan (2); dan
- (b) dalam subseksyen (3), dengan menggantikan perkataan “all such” dengan perkataan “any”.

Penggantian kepala

57. Akta ibu dipinda dengan menggantikan kepala “*Debtor’s Books*” yang terdapat sebelum seksyen 135 dengan kepala yang berikut:

“*Bankrupt’s Books*”.

Pindaan seksyen 135

58. Seksyen 135 Akta ibu dipinda—

- (a) dalam nota bahu, dengan menggantikan perkataan “**debtor’s**” dengan perkataan “**bankrupt’s**”; dan
- (b) dalam subseksyen (1), dengan menggantikan perkataan “debtor” dengan perkataan “bankrupt”.

Pemotongan Jadual B

59. Akta ibu dipinda dengan memotong Jadual B.

Kecualian

60. (1) Akta ini tidak terpakai bagi penghutang atau bankrap yang terhadapnya perintah penerimaan atau penghakiman telah dibuat sebelum mula berkuatkuasanya Akta ini.

(2) Apa-apa prosiding, tindakan atau perkara lain yang dikehendaki untuk dibuat di bawah Akta ibu yang masih belum selesai sebaik sebelum mula berkuatkuasanya Akta ini hendaklah diteruskan atau diselesaikan di bawah Akta ibu seolah-olah Akta ibu tidak dipinda oleh Akta ini.

(3) Walau apa pun subseksyen (1), subseksyen 33B(2A) hendaklah terpakai bagi orang yang telah dihukum bankrap sebelum permulaan kuat kuasa Akta ini.