

**BANKRUPTCY AND SUSPEND DEBT REPAYMENTS**  
**(Law No. 37/2004 dated October 18, 2004)**

BY THE GRACE OF GOD ALMIGHTY  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering :

- a. That the development of national law aimed at creating a just and prosperous community based on the Five-Point State Ideology Pancasila and the 1945 Constitution of the Republic of Indonesia must be able to support and guarantee legal certainty, order, enforcement and protection which is justice-and truth-oriented;
- b. That the ever increasingly rapid economic and trade developments have led to the increasing number of problems pertaining to debts and claims in the community;
- c. That the monetary crisis that occurred in Indonesia has brought about an unprofitable impact to the national economy so that it has caused financial hardship to businesspeople in settling their debts to continue their business;
- d. That most of the contents of Law on Bankruptcy (Statute Book of 1905:217 junction Statute Book of 1906:348) as one of the legal instruments to settle debts is no longer relevant to legal developments and needs in the community and therefore, it has been amended by Government Regulation in lieu of Law No. 1/1998 on Amendment to Law on Bankruptcy which was later declared as Law based on Law No. 4/1998, however, the amendment has not met legal developments and needs in the community;
- e. That based on the considerations in letters a, b, c, and d, it is necessary to enact a new law on bankruptcy and suspended debt repayments.

In view of :

1. Article 1 paragraph (3), Article 5 paragraph (1), Article 20, Article 24, and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia;
2. Indonesia Regulation (Statute Book of 1926:559 junction Statute Book of 1941:44);
3. Law for Regions outside Java and Madura (Statute Book of 1927:227);
4. Law No. 14/1985 on the Supreme Court (Statute Book of 1985 No. 73, Supplements to Statute Book No. 3316) as has been amended by Law No. 5/2004 on Amendment to Law No. 14/1985 on the Supreme Court (Statute Book of 2004 No. 9, Supplement to Statute Book No. 4359);
5. Law No. 2/1986 on General Court (Statute Book of 1986 No. 20, Supplement to Statute Book No. 3327) as has been amended by Law No. 8/2004 on Amendment to Law No. 2/1986 on General Court (Statute Book of 2004 No. 34, Supplement to Statute Book No. 4379);
6. Law No. 4/2004 on Judicial Power (Statute Book of 2004 No. 8, Supplement to Statute Book No. 4358);

By the joint approval of  
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA  
and  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

D E C I D E S,

To stipulate :

LAW ON BANKRUPTCY AND SUSPENDED DEBT REPAYMENT

## CHAPTER I GENERAL PROVISIONS

### Article 1

Hereinafter referred to as :

1. Bankruptcy means the general seizure of all assets of a bankrupt debtor by a curator under the supervision of a supervisory judge as meant in this Law.
2. Creditor means a person that has claims which because of an agreement or law can be collected before a court.
3. Debtor means a person that has debts which because of an agreement or law can be settled before a court.
4. Bankrupt debtor means s debtor that has been declared bankrupt by a court verdict.
5. Curator means a legacy agency or an individual appointed by a court to take care of the assets of a bankrupt debtor under the supervision of a supervisory judge as meant this Law.
6. Debt means obligation that is declared or can be declared in a sum of money, either in the rupiah or foreign currency, either that arises directly or may arise in the future or contingent, due to an agreements or law and must be repaid by the debtor and if not fulfilled, the debtor must give authority to the Creditor to get the debt repaid using the assets of the debtor.
7. Court means a commercial court overseen by a general court.
8. Supervisory judge means a judge appointed by the court in a verdict on bankruptcy or suspended debt repayments.
9. Day means calendar day and if the last day of a grace period falls on Sunday or holiday the calendar day is the ensuing day.
10. Grace period means a period of time that must be counted, excluding the day when the grace period begins.
11. Any individual means an individual or corporation including corporate body or on corporate body in a state of being liquidated.

## CHAPTER II BANKRUPTCY

### Part One

#### Requirements of and Decision on Bankruptcy

### Article 2

- (1) A debtor that has two creditors or more and does not settle at least one debt that has fallen due and can be collected is declared bankrupt by a court verdict, either at the request of the debtor or one or more creditors.
- (2) The request as meant in paragraph (1) can also be filed by a public prosecutor's office in the interest of the public.
- (3) If a debtor is a bank, only Bank Indonesia can file a request for a declaration of bankruptcy.
- (4) If a debtor is a stock company, stock exchange, clearing and underwriting agency, or custodian and settlement agency, only the Capital Market Supervisory Board can file a request for a declaration of bankruptcy.
- (5) If a debtor is an insurance company, reinsurance company, pension fund or state-owned company serving the public interests, only the Minister of Finance can file a request for a declaration of bankruptcy.

### Article 3

- (1) A verdict pertaining to a request for a declaration of bankruptcy and other matters related to and/or provided for in this Law shall be decided by the court whose judicial territory covers the domicile of the debtor.
- (2) If a debtor has already fled the territory of the Republic of Indonesia, the court authorized to decide the request for a declaration of bankruptcy shall be court whose judicial territory covers the last domicile of the debtor.
- (3) If a debtor is the shareholder of a firm, the court whose judicial territory covers the domicile of the firm shall also have the territory to decide the request for a declaration of bankruptcy.
- (4) If a debtor is not domiciled in the territory of the Republic of Indonesia but practices profession or carries on business in the territory of the Republic of Indonesia, the court authorized to decide the request for a declaration of bankruptcy is the court whose judicial territory covers the domicile or head office of the debtor practicing profession or carrying on business in the territory of the Republic of Indonesia.
- (5) If a debtor is a corporate body, the domicile of the debtor shall be as the referred to in its articles of association.

### Article 4

- (1) If a request for a declaration of bankruptcy is filed by a debtor who is still bound by legal marriage, the request can only be filed at the approval of the husband or wife.
- (2) The provision in paragraph (1) is not valid in case of on wealth integration.

### Article 5

A request to declare a firm bankrupt shall contain the name and domicile of each of its shareholders that are collectively bound to all of its debts.

### Article 6

- (1) A request for a declaration of bankruptcy is filed to the chief of court.
- (2) The clerk of court registers the request for a declaration of bankruptcy on the date when the request is filed, and gives the applicant a receipt signed by the authorized official with the date being the same as the registration date.
- (3) The clerk of court must reject to register any request to declare the agencies as meant in Article 2 paragraph (3), paragraph (4) and paragraph (5) bankrupt if the request is not filed in accordance with provisions in those paragraphs.
- (4) The clerk of court conveys any request for a declaration of bankruptcy to the chief of court in no more than 2 (two) days after the request has been registered.
- (5) In no more than 3 (three) days after the request for a declaration of bankruptcy has been registered, the court shall study the request and set a session day.
- (6) The session to examine the request for a declaration of bankruptcy shall be held in no more than 20 (twenty) days after the request has been registered.
- (7) At the request of the debtor and on the basis of sufficient reasons, the court can postpone the session as meant in paragraph (5) until no more than 25 (twenty five) days after the request has been registered.

### Article 7

- (1) The request as meant in Article 6, Article 10, Article 11, Article 12, Article 43, Article 56, Article 57, Article 58, Article 68, Article 161, Article 171, Article 207 and Article 212 shall be filed by lawyers.

- (2) The provision in paragraph (1) will not be valid if the requests are filed by the public prosecutor's office, Bank Indonesia, the Capital Market Supervisory Board and the Minister of Finance.

#### Article 8

- (1) The court
  - a. Shall summon the debtor if the request for a declaration of bankruptcy is filled by the creditor, the public prosecutor's office, Bank Indonesia, the Capital Market Supervisory Board, or the Minister of Finance;
  - b. Can summon the creditor if the request for a declaration of bankruptcy is filed by the debtor and there is doubt that the requirements for a declaration of bankruptcy as meant in Article 2 paragraph (1) have been met.
- (2) The summons as meant in paragraph (1) is served by a confiscator by a special delivery letter in no more than 7 (seven) days before the first session to examine the request is held.
- (3) A summons will be declared valid and considered as being received by the debtor if it is served by a confiscator in accordance with the provisions in paragraph (2).
- (4) A request for a declaration of bankruptcy must be approved if there is fact or situation that simply indicates that the requirements for a declaration of bankruptcy as meant in Article 2 paragraph (1) have been met.
- (5) A court verdict pertaining to a request for a declaration of bankruptcy must be read out in no more than 60 (sixty) days after the request for a declaration of bankruptcy has been registered.
- (6) The court verdict as meant in paragraph (5) shall also contain :
  - a. Certain articles of the relevant laws and regulations and/or unwritten legal sources serving as the basis for trial; and
  - b. Legal considerations and views that are different from those of members or chief of the panel of judges.
- (7) The verdict pertaining to a request for a declaration of bankruptcy as meant in paragraph (6) that completely contains legal considerations underlying the verdict must be read out in a court session open to the public and can be implemented first even though the verdict is challenged.

#### Article 9

A copy of the court verdict as meant in Article 8 paragraph (6) shall be conveyed by a confiscator by special-delivery letter to the debtor, the party filing a request for a declaration of bankruptcy, the curator and the supervisory judge in no more than 3 (three) days after the date when the court verdict pertaining to the request for a declaration of bankruptcy is read out.

#### Article 10

- (1) As long as the court verdict pertaining to a request for a declaration of bankruptcy has not been read out, each creditor, the public prosecutor's office, Bank Indonesia, the Capital Market Supervisory Board, or the Minister of Finance can file a request to the court to:
  - a. Release the confiscation of guarantees of debtor's property, partially or wholly; or
  - b. Appoint a provisional curator to supervise
    - (1) The management of the debtor's business; and
    - (2) The payments to the creditor, transfer, or use of the debtor's property as collateral which becomes the authority of the curator in case of bankruptcy.
- (2) The request as meant in paragraph (1) can only be approved if the matter is needed to protect the interest of the creditor.
- (3) If the request as meant in paragraph (1) letter a is approved, the court can stipulate requirements to enable the creditor filing the request to give guarantees considered reasonable by the court.

#### Article 11

- (1) The legal effort that can be made to challenge the court verdict pertaining to a request for a declaration of bankruptcy is appeal to the Supreme Court.
- (2) The appeal as meant in paragraph (1) is filed in no more than 8 (eight) days after the date when the verdict against which the appeal is filed is read out, by registering it with the clerk of court that has decided the request for a declaration of bankruptcy.
- (3) The request for appeal as meant in paragraph (2) can be filed not only by the debtor and the creditor that constitutes the party in the first level of session but also by other creditor that does not constitute the party in the first level of session and is not satisfied at the verdict pertaining to the request for a declaration of bankruptcy.
- (4) The clerk of court registers the request for appeal on the date when the request is filed and the applicant is given a receipt signed by the clerk of court on the same date as the receipt of registration.

#### Article 12

- (1) Any applicant for appeal must send the clerk of court a memory for appeal on the registration date of the appeal.
- (2) The clerk of court must send the application for appeal and the memory of appeal as meant in paragraph (1) to the party to which the appeal is applied in no more than 2 (two) days after the application for appeal has been registered.
- (3) The party to which the appeal is applied may file a contra memory of appeal to the clerk of court in no more than 7 (seven) days after the party to which the appeal is applied has received a memory of appeal as meant in paragraph (2), and the clerk of court must file a contra memory of appeal to the applicant for appeal in no more than 2 (two) days after the contra memory of appeal has been received.
- (4) The clerk of court must convey the application for appeal, the memory of appeal, and the contra memory of appeal along with the files of the relevant case to the Supreme Court in no more than 14 (fourteen) days after the application for appeal has been registered.

#### Article 13

- (1) The Supreme Court must study any application for appeal and determine a session day in no more than 2 (two) days after receiving the application for appeal.
- (2) A session to examine an application for appeal must be held in no more than 20 (twenty) days after the application for appeal has been received by the Supreme Court.
- (3) A verdict pertaining to the application for appeal must be read out in no more than 60 (sixty) days after the application for appeal has been received by the Supreme Court.
- (4) The verdict pertaining to the application for appeal as meant in paragraph (3) that completely contains legal considerations underlying the verdict must be read out in a session open to the public.
- (5) In case of difference of opinion between members and chief of the panel of judges, the difference of opinion must be contained in the verdict pertaining to appeal.
- (6) The clerk of the Supreme Court must convey a copy of the verdict pertaining to appeal to the clerk of the commercial court in no more than 3 (three) days after the verdict pertaining to the application for appeal has been read out.
- (7) The confiscator of the court must convey copies of the verdict pertaining to appeal as meant in paragraph (5) to the applicant for appeal, the party to which appeal is applied, the curator, and the supervisory judge in no more than 2 (two) days after the verdict pertaining to appeal has been received.

#### Article 14

- (1) An application for a review of the verdict pertaining to a request for a declaration of bankruptcy that has permanent legal force can be filed to the Supreme Court.
- (2) The provisions in Article 12 and Article 13 shall *mutatis mutandis* apply to a review of the verdict pertaining to a request for a declaration of bankruptcy.

#### Article 15

- (1) A declaration of bankruptcy must contain a clause on the appointment of a curator and a supervisory judge appointed from a court judge.
- (2) If a debtor, creditor or party authorized to file a request for a declaration of bankruptcy as meant in Article 2 paragraph (2), paragraph (3), paragraph (4) or paragraph (5) does not propose the appointment of a curator to the court, the legacy agency will be appointed a curator.
- (3) The appointed curator as meant in paragraph (1) must be independent, has no conflict of interests with the debtor or the creditor and is not in the process of handling more than 3 (three) cases of bankruptcy and suspended debt payments.
- (4) In no more than 5 (five) days after the curator and the supervisory judge have received a declaration of bankruptcy, the curator shall announce a summary of declaration of bankruptcy in the State Gazette of the Republic of Indonesia and at least in 2 (two) newspapers appointed by the supervisory judge, containing the following matters :
  - a. Name, address and job of debtor;
  - b. Name of supervisory judge;
  - c. Name, address and job of curator;
  - d. Name, address and job of member of the provisional creditor committee, if he/she has been appointed; and
  - e. Time and place of the first meeting of creditors.

#### Article 16

- (1) A curator is authorized to take care of bankrupt wealth since a verdict on bankruptcy has been read out although an appeal or review of the verdict has been filed.
- (2) If a declaration of bankruptcy is canceled due to an appeal or review of the verdict, all actions taken by the curator before or when the curator receives a notification on verdict pertaining to cancellation as meant in Article 17 remain valid and bind the debtor.

#### Article 17

- (1) Any curator is obliged to announce a verdict pertaining to appeal or review which cancels a verdict pertaining to bankruptcy in the State Gazette of the Republic of Indonesia and at least in 2 (two) newspapers as meant in Article 15 paragraph (4).
- (2) The panel if judges that cancels a verdict pertaining to a declaration of bankruptcy shall also set the cost of bankruptcy and recompense for the curator.
- (3) The cost as meant in paragraph (2) shall be borne by the applicant for a declaration of bankruptcy or by the applicant and debtor in a ratio stipulated by the panel of judges.
- (4) To pay the cost of bankruptcy and recompense for the curator as meant in paragraph (2), the chief of court shall issue a verdict to execute the application from the curator.
- (5) If a verdict pertaining to a declaration of bankruptcy is canceled, possible peace will be invalid for the sake of law.

#### Article 18

- (1) If the bankrupt wealth is not enough to pay the cost of bankruptcy, the court, at the proposal of the supervisory judge and after hearing the provisional creditor committee (if any) and after summoning legally or hearing the debtor, can decide to revoke a declaration of bankruptcy.
- (2) The verdict as meant in paragraph (2) shall be read out in a session open to the public.
- (3) The panel of judges that orders the revocation of a declaration of bankruptcy shall set the cost of bankruptcy and recompenses for the curator.
- (4) The cost of bankruptcy and recompenses for the curator as meant in paragraph (3) shall be borne by the debtor.
- (5) The cost of bankruptcy and recompenses for the curator as meant in paragraph (3) shall have priority over all debts that are not guaranteed with collateral.
- (6) No legal effort may be made to challenge the verdict of the panel of judges on the cost of bankruptcy and recompenses for the curator as meant in paragraph (3).
- (7) To pay the cost of bankruptcy and recompenses for the curator as meant in paragraph (3), the chief of court shall issue a verdict to execute the application from the curator under the leadership of the supervisory judge.

#### Article 19

- (1) The clerk of court shall announce the verdict that orders the revocation of a declaration of bankruptcy in the State Gazette of the Republic of Indonesia and at least in 2 (two) newspaper as meant in Article 15 paragraph (4).
- (2) An appeal and/or review may be filed against the verdict pertaining to the revocation of a declaration of bankruptcy as meant in paragraph (1).
- (3) If after the verdict pertaining to the revocation of a declaration of bankruptcy has been read out another application for a declaration of bankruptcy is filled, the debtor or the applicant must prove that there is adequate wealth to pay the cost of bankruptcy.

#### Article 20

- (1) The clerk of court must keep a general list to record any case of bankruptcy separately.
- (2) The general list as meant in paragraph (1) must contain :
  - a. A summary of the verdict pertaining to a declaration of bankruptcy or the verdict pertaining to the cancellation of a declaration of bankruptcy;
  - b. Brief content of peace and verdict endorsing it;
  - c. Cancellation of peace;
  - d. The ratio of division during the process of taking care of wealth;
  - e. The revocation of a declaration of bankruptcy as meant in Article 18; and
  - f. Rehabilitation,
 By mentioning respective dates.
- (3) Further provisions on the model and content of the general list as meant in paragraph (1) are to be laid down in a decision oh the Chief of the Supreme Court.
- (4) The general list as meant in paragraph (1) shall be open to the public and can be seen by each person free of charge.

### Part Two Cause of Bankruptcy

#### Article 21

Bankruptcy covers all assets of the debtor at the time when a declaration of bankruptcy is read out and everything which is obtained during the bankruptcy process.

#### Article 22

The provision in Article 21 do not apply to :

- a. Materials, including animals that are really needed by the debtor in connection with his/her job, equipment, medical instruments used in the health sector, beds and accessories used by the debtor and his/ her family, and staple food for 30 (thirty) days for the debtor and his/her family found in those places;
- b. Everything that is obtained by the debtor from his/her job as salaries from a post or service, as salaries, pension, waiting money or allowance, as far as they are determined by the supervisory judge; or
- c. Money that is given to the debtor to meet an obligation to support family in accordance with the law.

#### Article 23

The bankruptcy debtor as meant in Article 21 and Article 22 covers wife or husband of the bankrupt debtor that is married under wealth integration.

#### Article 24

- (1) A debtor for the sake of law losses his/her rights to control and take care of his/her wealth including bankrupt wealth after a declaration of bankruptcy has been read out.
- (2) The date of verdict as meant in paragraph (1) shall start from 00.00 local time.
- (3) If before the verdict pertaining to a declaration of bankruptcy is read out there has been transfer of funds through a bank or on-bank institution on the date of verdict as meant in paragraph (1) the transfer of funds must be continued.
- (4) If before the verdict pertaining to a declaration of bankruptcy is read out there has been transfer of stocks in the Stock Exchange, the transaction must be settled.

#### Article 25

All obligations of the debtor that arise after a declaration of bankruptcy can no longer be paid using bankrupt wealth, except if the obligations benefit the bankrupt wealth.

#### Article 26

- (1) Demand for the rights or obligation related to bankrupt wealth must be filed by or against the curator.
- (2) If the demand as meant in paragraph (1) is filed or continued by or against the bankrupt debtor, and the demand results in the punishment of the bankrupt debtor, the punishment will not have a legal impact on bankrupt wealth.

#### Article 27

During the bankruptcy process demand for the fulfillment of obligations from bankrupt wealth which is addressed to the bankrupt debtor can only be filed by registering it for verification.

#### Article 28

- (1) A legal demand that is filed by the debtor and is still going on during the bankruptcy process, at the request of the defendant, the case must be suspended to give a chance to the defendant to invite the curator to take over the case within a period of time set by the judge.



- (2) If the curator ignores the invitation, the defendant has the right to apply for the annulment of the case, and if no application is filed the case can be continued between the debtor and the defendant outside the guarantee of bankrupt wealth.
- (3) The provisions in paragraph (2) also apply to the curator who rejects to take over the case.
- (4) Without receiving an invitation, at any time the curator has the authority to take over a case and apply for the debtor's acquittal of the case.

#### Article 29

A legal demand in the court which is filed against the debtor, as long as it is designed to obtain the fulfillment of obligations from bankrupt wealth and the case is still going on, is annulled for the sake of the law by reading out a verdict pertaining to a declaration of bankruptcy to the debtor.

#### Article 30

If a case is continued by the curator against the opposite party, the curator may apply for the cancellation of all actions taken by the debtor before the relevant party is declared bankrupt, if the actions of the debtor are taken with the aim of harming the interests of the creditor and the actions are known by opposite party.

#### Article 31

- (1) A verdict pertaining to a declaration of bankruptcy that leads to the court stipulating a verdict for each part of the debtor's wealth that has been in existence before the bankruptcy, must be stopped instantly and since then no verdict can be implemented, including taking the debtor hostage.
- (2) All confiscation activities that have been carried out are annulled and if necessary, the supervisory judge must order the scratching out of the activities.
- (3) Without reducing the validity of the provisions in Article 93, the debtor who is being detained must be freed instantly after the verdict pertaining to a declaration of bankruptcy has been read out.

#### Article 32

During the bankruptcy process the debtor shall be exempted from forced money.

#### Article 33

If before the verdict pertaining to a declaration of bankruptcy is read out the sales of articles belonging to the debtor, either movables or immovables, within the framework of execution has gone too far even the sale date of the articles has been set, with the permission from the supervisory judge the curator can continue the sales at the guarantee of the bankrupt wealth.

#### Article 34

Except this Law stipulates otherwise, any agreement designed to transfer rights to land, ownership of ship, charge to guarantee rights, mortgage of fiducial guarantee that have been agreed upon previously can not be implemented after a verdict pertaining to a declaration of bankruptcy has been read out.

#### Article 35

If a claim is filed for clarification this will prevent it from being expired.

#### Article 36

- (1) If at the time when a verdict pertaining to a declaration of bankruptcy is read out there is reciprocal agreement that has not been implemented or has partially been fulfilled, the party

signing the agreement with the debtor may ask the curator to give certainty about the continuation of the agreement within a period of time agreed upon by the curator and the party.

- (2) If the agreement on the period of time as meant in paragraph (1) cannot be reached, the supervisory judge shall set the period of time.
- (3) If within the period of time as meant in paragraph (1) and paragraph (2) the curator does not reply or is not ready to continue the implementation of the agreement, the agreement will end and the party as meant in paragraph (1) can ask for compensation and will be treated as a concurrent creditor.
- (4) If the curator states his/her readiness, the curator must guarantee the readiness to implement the agreement.
- (5) The provisions in paragraph (1), paragraph (2), paragraph (3), and paragraph (4) do not apply to the agreement that requires the debtor to take the action pledged on his/her own.

#### Article 37

- (1) If in the agreement as meant in Article 36 the transfer of merchandise that is normally traded within a period of time is agreed upon and the party that must deliver of the merchandise, the agreement will be annulled after a declaration of bankruptcy has been read out, and if the opposite party is harmed because of the annulment, the relevant party may nominate himself/herself as a concurrent creditor to get compensation.
- (2) If the bankrupt wealth is harmed because of the annulment as meant in paragraph (1) the opposite party must pay the compensation.

#### Article 38

- (1) If the debtor has hired an article, both the curator and the lessor may halt the lease agreement or condition that they must notify the halt before the expiry of the agreement in accordance with the local tradition.
- (2) If the lease agreement as meant in paragraph (1) is halted, there must be notification on the halt in accordance with the agreement or custom in no more than 90 (ninety) days.
- (3) If rent have been paid in advance, the lease agreement cannot be halted earlier than the expiry of the period of time in which the rents have been paid.
- (4) After the verdict pertaining to a declaration of bankruptcy has been read out, the rents constitute the debt of bankrupt wealth.

#### Article 39

- (1) A worker who works for the debtor may seek layoff and on the contrary, the curator may lay him/her off by observing the period of time in accordance with the agreement or the existing law, meaning that the layoff can materialize by notifying it in no more than 45 (forty-five) days before.
- (2) After the verdict pertaining to a declaration of bankruptcy has been read out, the wages that become due before and after the verdict pertaining to a declaration of bankruptcy is read out constitute the debt of bankrupt wealth.

#### Article 40

- (1) Legacy which during bankruptcy process goes to a bankrupt debtor cannot be received by the curator, except it benefits the bankrupt wealth.
- (2) In order not to receive legacy, the curator needs a permit from the supervisory judge.

#### Article 41

- (1) In the interest of bankrupt wealth, an application may be filed to the court for the cancellation of all legal actions taken by the debtor that has been declared bankrupt and harmed the interests of the creditor before the verdict pertaining to a declaration of bankruptcy is read out.
- (2) The cancellation as meant in paragraph (1) can only be made if at the time when the legal actions were taken the debtor and the party to whom the legal actions were taken knew or deserved to know that the legal actions would inflict losses to the creditor.
- (3) Exception to the provision in paragraph (10) is the legal action that must be taken by the debtor based on the agreement and/or due to the law.

#### Article 42

If the legal action that harm the interests of the creditor is taken within 1 (one) year before the verdict pertaining to a declaration of bankruptcy is read out, while the debtor is put under no obligation to take the action, except if reversible authentication can be made the debtor and the party to whom the action has been taken knew or should have known that the action will inflict losses to the creditor as meant in Article 41 paragraph (2) if the action

- a. Constitutes an agreement in which the obligation of the debtor exceeds that of the party with whom the agreement is made;
- b. Constitutes payment or guarantee for the debt that has not fallen due and/or has not been or cannot be collected;
- c. Is taken by an individual debtor, along with or in the interests of :
  - 1) The husband or wife, adopted child, or family until the third generation;
  - 2) The legal entity in which the debtor or the party as meant in point 1) is director or manager of the legal entity, or if the party, either individually or jointly, gets directly or indirectly involved in the ownership of the legal entity reaching more than 50% (fifty percent) of the paid-up capital or in controlling the legal entity.
- d. Is taken by the debtor as a legal entity, along with or in the interests of :
  - 1) The directors or managers of the debtor, the husband or wife, adopted child, or family member until the third generation of the director's or managers;
  - 2) An individual, either individually or jointly with the third generation, who gets directly or indirectly involved in the ownership of the debtor reaching more than 50 (fifty percent) of the paid of capital or in controlling the legal entity;
  - 3) An individual, whose husband or wife, adopted child, or family member until the third generation gets directly or indirectly involved in the ownership of the debtor reaching more than 50 (fifty percent) of the paid-up capital or in controlling the legal entity.
- e. Is taken by the debtor as a legal entity, along with or in the interests of other legal entity, if :
  - 1) The directors or managers of the two legal entities are the same;
  - 2) the husband or wife, adopted child, or family member until the third generation of the director or manager of the debtor is also the director or manager of the other legal entity;
  - 3) the director or manager, or commissioner of the debtor, or the husband or wife, adopted child, or family member until the third generation, either individually or jointly, gets directly or indirectly involved in the ownership of the other legal entity reaching more than 50% (fifty percent) of the paid of capital or in controlling the legal entity, or the other way around;
  - 4) the debtor is a director or manager of the other legal entity, or the other way around;
  - 5) the same legal entities, or the same individuals, either jointly or not jointly, or without the husband or wife, and/or adopted child and family member until the third generation, get directly or indirectly involved in the ownership of the two legal entities reaching at least 50% (fifty percent) of the paid of capital;
- f. is taken by the debtor as a legal entity, along with or against the other legal entity belonging to the same group in which the debtor is a member;

- g. the provisions in letter c, letter d, letter e and letter f shall mutatis mutandis be put into force if the action is taken by the debtor, along with or in the interests of
- 1) the manager of a legal entity, the husband or wife, adopted child, or family member until the third generation of the manager;
  - 2) an individual, either individually or jointly with the husband or wife, adopted child or family member until the third generation, who gets directly or indirectly involved in controlling the legal entity.

#### Article 43

A request may be made to the court to cancel the grants from the debtor if the curator can prove that at the time when the grants were made the debtor knew or should know the action may inflict losses to the creditor.

#### Article 44

Except if reversible authentication can be made, the debtor is considered as knowing or should have known that the grants harm the interests of the creditor if the grants are made within 1 (one) year before the verdict pertaining to a declaration of bankruptcy has been made.

#### Article 45

Payment of debt that can be collected may be canceled only if the recipient of the debt payment knows that the application to declare the debtor bankrupt has been registered or if the payment is the result of a conspiracy between the debtor and the creditor within the aim of benefiting the creditor more than other creditors.

#### Article 46

- (1) based on the provision in Article 45, payment that has been received by the holder of substitute letter or bearer letter who because of legal relation with the previous holder must receive payment, cannot be withdrawn.
- (2) If payment cannot be withdrawn as meant in paragraph (1), the person who receives the revenue due to the issuance of substitute letter or bearer letter must return the amount of money paid by the debtor to the bankrupt wealth, if
  - a. At the time of issuing the letter as meant in paragraph (1) the relevant party knows that the application to declare the debtor bankrupt has been registered.
  - b. The issuance of the letter is the result of a conspiracy between the debtor and the first holder.

#### Article 47

- (1) Demand for the rights based on the provisions in Article 41, Article 42, Article 43, Article 44, Article 45 and Article 46 is filed by the curator to the court.
- (2) Based on the reasons as meant in Article 41, Article 42, Article 43, Article 44, Article 45, and Article 46 the creditor can file a denial of the demand from the curator.

#### Article 48

- (1) If bankruptcy ends in the endorsement of a peace agreement the demand as meant in Article 47 shall be nullified.
- (2) The demand as meant in Article 47 is not nullified if the peace agreement contains a clause on the release of bankrupt wealth and therefore, the demand can be continued or filed by wealth arrangers in the interests of the creditor.

#### Article 49

- (1) Anybody who has received items as part of the debtor's wealth covered in the canceled legal action shall return the items to the curator for further reporting to the supervisory judge.
- (2) If the person as meant in paragraph (1) fail to return the items in a previous state, he/she must compensate the bankrupt wealth.
- (3) The third party's rights to the items as meant in paragraph (1) obtained with good intention and not free of charge must be protected.
- (4) The items received by the debtor or the compensation for the items must be returned by the curator, as far as this benefits the bankrupt items, while for the shortcomings, the person to whom the cancellation is filed may appear as a concurrent creditor.

#### Article 50

- (1) Any body who after the verdict pertaining to a declaration of bankruptcy has been read out but not yet announced makes payments to the bankrupt debtor to fulfill the obligation that appears before the verdict pertaining to a declaration of bankruptcy is read out, is exempted from the bankrupt wealth as far as the relevant party does not prove that he/she knows the verdict pertaining to a declaration of bankruptcy.
- (2) The payments as meant in paragraph (1) made after the verdict pertaining to a declaration of bankruptcy has been announced does not free the bankrupt wealth,, except if the relevant party can prove that he/she unlikely knows the announcement on the verdict pertaining to a declaration of bankruptcy made based on the law in his/her place of stay.
- (3) The payments made to the bankrupt debtor exempt the debtor from the bankrupt wealth if the payments benefit the bankrupt wealth.

#### Article 51

- (1) Anybody who owes or has claims to the bankrupt debtor may apply for debt match if the debts or claims appeared before the verdict pertaining to a declaration of bankruptcy is read out or as a result of the action taken along with the bankrupt debtor before the verdict pertaining to a declaration of bankruptcy is read out.
- (2) If necessary, the claims to the bankrupt debtor are counted according to the provisions in Article 136 and Article 137.

#### Article 52

- (1) Anybody who has taken over debts or claims from a third party before the verdict pertaining to a declaration bankruptcy is read out cannot apply for debt match if at the time of taking over the debts or claims the relevant party has no good intention.
- (2) All debts and claims taken over after the verdict pertaining to a declaration of bankruptcy has been read out cannot be matched.

#### Article 53

Anybody who owes to the bankruptcy debtor and wishes to compensate his/her debts for claims based on a bearer letter or substitute letter must prove that at the time when the verdict pertaining to a declaration of bankruptcy is read out the person, with good intention, has already become the owner of the bearer letter or the substitute letter.

#### Article 54

Anybody who along with the bankruptcy debtor are united in a firm due to or during the bankruptcy process is dissolved deserve to reduce part of his/her profit which during the time of distribution falls to the bankrupt debtor, with the bankrupt debtor required to repay the firm's liabilities.

#### Article 55

- (1) By constantly observing the provision in Article 56, Article 57 and Article 58, any creditor as the holder of collateral, fiducial guarantee, guarantee right, mortgage, or collateral right to other materials can execute his/her rights as if there was no bankruptcy.
- (2) In case the claims as meant in Article 136 and Article 137 are collected they can only do such thing after the collection is verified and will only take the settlement of the recognized amount of the collection.

#### Article 56

- (1) The execution rights of the creditor as meant in Article 55 paragraph (1) and the rights of the third party to claims its wealth under the control of the bankrupt debtor or the curator are suspended for a maximum of 90 (ninety) days after the verdict pertaining to a declaration of bankruptcy has been read out.
- (2) The suspension as meant in paragraph (1) does not apply to the creditor's claims guaranteed by cash and the creditor's rights to match debts.
- (3) During the suspension period as meant in paragraph (1) the curator can use bankrupt wealth in the form of movables and immovables and sell bankrupt wealth in the form of movables under the control of the curator in order to rescue the debtor's business if proper protection has been given in the interests of the creditor or the third party as meant in paragraph (1).

#### Article 57

- (1) The period of time as meant in Article 56 paragraph (1) ends for the sake of law at the time when bankruptcy is ended more quickly or at the time when the insolvency condition as meant in Article 178 paragraph (1) starts.
- (2) The creditor or the third party whose rights are suspended may file a request to the curator to lift the suspension or alter the terms of the suspension.
- (3) If the curator rejects the request as meant in paragraph (1), the creditor or the third party can file the request to the supervisory judge.
- (4) In no more than 1 (one) day after receiving the request as meant in paragraph (2) the supervisory judge must order the curator to immediately summon the creditor and the third party as meant in paragraph (2) through delivery letter or courier to hear them at the session to examine the request.
- (5) The supervisory judge must issue a verdict pertaining to the request in no more than 10 (ten) days after the request as meant in paragraph (2) has been filed to the supervisory judge.
- (6) In deciding the request as meant in paragraph (2) the supervisory judge must consider :
  - a. The period of time for the suspension;
  - b. The protection of the interests of the said creditor and third party;
  - c. The possibility of peace;
  - d. The impact of the suspension on the continuation of the debtor's business and the management of the debtor's business as well as the effort to take care of bankrupt wealth.

#### Article 58

- (1) The supervisory judge's verdict pertaining to the request as meant in Article 57 paragraph (2) may take the form of the lifting of the suspension for one creditor or more, and/or the stipulation of requirements of the suspension period and/or the permit for the creditor to execute one or several collaterals.
- (2) If the supervisory judge rejects to lift the suspension or alter the terms of the suspension, the supervisory judge must order the curator to provide adequate protection to safeguard the interests of the applicant.

- (3) The creditor or the third party who files the request as meant in Article 57 paragraph (2) or the curator can file a suit to the court to challenge the verdict of the supervisory judge in no more than 5 (five) days after the verdict has been read out and the court must decide the suit in no more than 10 (ten) days after the suit has been received.
- (4) No legal effort including a request for a review can be made to challenge the verdict of the court as meant in paragraph (2).

#### Article 59

- (1) By constantly observing the provisions in Article 56, Article 57 and Article 58, the creditor who holds the rights as meant in Article 55 paragraph (1) must exercise the rights in no more than 2 (two) months after the insolvency condition as meant in Article 178 paragraph (1) starts.
- (2) After the period of time as meant in paragraph (1) has passed the curator must demand the transfer of the items used as collateral for further sale according to the method as meant in Article 185 without reducing the rights of the curator as the holder of the rights to proceeds from the sale of the collateral.
- (3) Any time the curator can free the items used as collateral by paying the smallest amount between the market price of the collateral and the amount of debts guaranteed by the collateral to the creditor.

#### Article 60

- (1) The creditor as the holder of the rights as meant in Article 55 paragraph (1) who exercises his/her rights must convey a report of accountability to the curator about proceeds from the sale of items used as collateral and transfer the proceeds from the sale of the items after being reduced by the amount of debts, interest and fees to the curator.
- (2) With regard to demand from the curator or the creditor who receives special privileges and has higher position than the creditor as the holder of rights as meant in paragraph (1), the creditor as the holder of rights must transfer portion of the proceeds from the sale of items at the same amount as the claims that receive special privileges.
- (3) If the proceeds from the sale of items as meant in paragraph (1) are not enough to settle the relevant claims, the creditor who holds the rights can file a request for the settlement of the remaining claims using the bankrupt wealth as a concurrent creditor after filing a request for the verification of claims.

#### Article 61

The creditor who holds the rights to resist the items of the debtor will not lose rights due to the verdict pertaining to a declaration of bankruptcy.

#### Article 62

- (1) If a husband or wife is declared bankrupt, the wife or her husband is entitled to get back all the movables and immovables that originate from the husband or wife and the wealth that is obtained as prize or legacy.
- (2) If the items belonging to the wife or husband have been sold by the husband or wife and the sale has not been paid or the money from the sale of items has not been mixed with the bankrupt wealth, the wife or husband is entitled to get back the money from the sale of the items.
- (3) With regard to personal claims to the wife or husband, the creditor to the bankrupt wealth is the husband or wife.

#### Article 63

Neither wife nor husband is entitled to demand profit pledged in the marriage agreement to the bankrupt wealth of the husband or wife declared bankrupt, and neither is the creditor of the husband or wife declared bankrupt.

#### Article 64

- (1) The bankruptcy faced by the husband or wife who are married in wealth integration is treated as the bankruptcy of the wealth integration.
- (2) Without reducing the exception as meant in Article 25, the bankruptcy covers all the items belonging to the wealth integration, while the bankruptcy is designed to serve the interests of all creditors who are entitled to receive payments from the wealth integration.
- (3) If the husband or wife who is declared bankrupt has items that do not belong to the wealth integration, the items are considered bankrupt wealth but they can only be used to repay the person debts of the husband or wife declared bankrupt.

#### Part Three

#### The Management of Bankrupt Wealth

#### Paragraph I

#### Supervisory Judge

#### Article 65

The supervisory judge supervises the management and arrangement of bankrupt wealth.

#### Article 66

The court must hear the views of the supervisory judge before taking a verdict on the management and arrangement of bankrupt wealth.

#### Article 67

- (1) The supervisory judge is authorized to hear testimonies from witnesses and instruct an investigation by experts to get a clear picture of matters pertaining to the bankruptcy.
- (2) Witnesses are summoned in the name of the supervisory judge.
- (3) If witnesses fail to show up or reject to give testimonies, the Civil Code will be used.
- (4) If witnesses live outside the judicial territory of the court deciding the bankruptcy, the supervisory judge can delegate the questioning of witnesses to the court whose judicial territory covers the domicile of the witnesses.
- (5) The wife or husband, former wife or husband and relative by blood of the bankrupt debtor according to the straight descent to above and below have the right to withdraw as witnesses.

#### Article 68

- (1) Appeals against all the verdicts of the supervisory judge may be lodged to the court within 5 (five) days after the verdicts were issued.
- (2) Appeals cannot be lodged against the verdicts as meant in Article 22 letter b, Article 33, Article 84 paragraph (3), Article 104 paragraph (2), Article 106, Article 125 paragraph (1), Article 127 paragraph (1), Article 183 paragraph (1), Article 184 paragraph (3), Article 185 paragraph (1), paragraph (2) and paragraph (3), Article 186, Article 188 and Article 189.

#### Paragraph 2

#### Curator



#### Article 69

- (1) The task of the curator is to manage and/or arrange bankrupt wealth.
- (2) In carrying out the task, the curator :
  - a. Is not put under an obligation to secure approval from or submit a preemptive notification to the debtor or one of the organs of the debtor even though in a state of outside bankruptcy such approval or notification is required;
  - b. Can make loans from the third party merely to increase the value of bankrupt wealth.
- (3) If in making loans from the third party, the curator needs to burden the bankrupt wealth with fiducial guarantee, guarantee right, mortgage or collateral right over other items the loans must secure prior approval from the supervisory judge.
- (4) The act of burdening the bankrupt wealth with fiducial guarantee, guarantee right, mortgage or collateral right over other items as meant in paragraph (3) can only be taken when it comes to part of bankrupt wealth that has not been used collateral for loans.
- (5) To show up at a court session, the curator must secure prior permission from the supervisory judge, except when it comes to a dispute over the verification of claims or when the matters as meant in Article 36, Article 38, Article 39 and Article 59 paragraph (3) are concerned.

#### Article 70

- (1) The curator as meant in Article 69 is
  - a. Legal agency; or
  - b. Other curators.
- (2) The curator as meant in paragraph (1) letter b must meet the following requirements :
  - a. Individual domiciled in Indonesia, who has special expertise needed to manage and/or arrange bankrupt wealth; and
  - b. Being registered at the ministry whose tasks and responsibilities cover the law and legislation sector.

#### Article 71

- (1) The court can any time approve a proposal for the replacement of a curator after summoning and hearing the curator, and appoint other curator and/or appoint additional curator based on :
  - a. The application from the curator himself/herself;
  - b. The application from the other curator, if any;
  - c. The proposal from the supervisory judge; or
  - d. The request from the bankrupt debtor.
- (2) The court must dismiss or appoint a curator at the request or recommendation from the concurrent creditor based on the decision achieved at a creditor meeting held as meant in Article 90, on condition that the decision must be achieved based on votes from more than  $\frac{1}{2}$  (a half) of the number of concurrent creditors or their proxies that show up at the meeting and represent more than  $\frac{1}{2}$  (a half) of the number of receivables of the concurrent creditor or their proxies that show up.

#### Article 72

The curator must be held responsible for his/her mistakes or ignorance in carrying out tasks of management and/or arrangement that inflict losses to the bankrupt wealth.

#### Article 73

- (1) If more than one curators are appointed, the curators need approval from  $\frac{1}{2}$  (a half) of the curators to take a legal and binding action.
- (2) If the number of curators favoring the action as meant in paragraph (1) is the same as that of curators opposing the action, the action must secure approval from the supervisory judge.
- (3) The curator who is assigned to carry out special tasks based on the verdict pertaining to a declaration of bankruptcy is authorized to take action on his/her own limited to his/her tasks.

#### Article 74

- (1) The curator must submit a report to the supervisory judge about the condition of bankrupt wealth and the execution of his/her tasks once every 3 (three) months.
- (2) The report as meant in paragraph (1) must be open to the public and visible to any person free of charge.
- (3) The supervisory judge can extend the period of the time as meant in paragraph (2).

#### Article 75

The amount of recompenses for the curator must be set after the bankruptcy is over.

#### Article 76

The amount of recompenses that must be paid to the curator as meant in Article 75 is set based on the guidelines stipulated by means of decree of the minister whose tasks and responsibilities cover the law and legislation sector.

#### Article 77

- (1) Any creditor, creditor committee, and bankrupt debtor can file a letter of objection to the supervisory judge in connection with the action taken by the curator or apply to the supervisory judge for an order for the curator to taken certain actions or not to take actions that have originally been planned.
- (2) The supervisory judge must convey a letter of objection to the curator in no more than 3 (three) days after the letter of objection has been received.
- (3) The curator must give a response to the supervisory judge in no more than 3 (three) days after receiving the letter of objection.
- (4) The supervisory judge must issue a stipulation in no more than 3 (three) days after receiving the response from the curator.

#### Article 78

- (1) The absence of power of attorney or permission from the supervisory judge, if the power of attorney or permission is needed, or the ignorance of provisions in Article 83 and Article 84, does not influence the validity of action taken by the curator against the third party.
- (2) In connection with the action, the curator himself/herself is responsible to the bankrupt debtor and the creditor.

#### Paragraph 3 Creditor Committee

#### Article 79

- (1) In a verdict on bankruptcy or through a further stipulation, the court can form a provisional creditor committee consisting of 3 (three) members appointed among the creditors known to other creditors with a view to giving advice to the curator.
- (2) The creditors appointed members of the provisional creditor committee can delegate all jobs related to their tasks in the committee to other people.

- (3) If the appointed creditor rejects the appointment, resigns or dies the provisional creditor with one of the 2 (two) nominees proposed by the supervisory judge.

#### Article 80

- (1) After the debts have been verified, the supervisory judge must offer the creditors to form a permanent creditor committee.
- (2) At the request of the concurrent creditors, based on the decision of the majority of concurrent creditors at a creditor meeting, the supervisory judge:
  - a. Replaces the provisional creditor committee, if in the verdict on bankruptcy the provisional creditor committee has been appointed; or
  - b. Forms a creditor committee, if in the verdict on bankruptcy a creditor committee has not been formed.

#### Article 81

- (1) The creditor committee is any time entitled to ask for access to all books, documents and letters on bankruptcy.
- (2) The curator must provide the creditor committee with all information needed.

#### Article 83

- (1) Before filing a suit, or continuing a current case, or denying a suit filed, the curator must ask for views from the creditor committee.
- (2) The provision in paragraph (1) does not apply to a dispute over debt verification, or over whether or not to continue the bankrupt company, in case of the matters as meant in Article 36, Article 38, Article 39, Article 59 paragraph (3), Article 106, Article 107, Article 184 paragraph (3), and Article 186 on the method of arranging and selling bankrupt wealth and on the time and quantity of distribution that must be done.
- (3) The views of the creditor committee as meant in paragraph (1) are not needed, if the curator has invited the creditor committee to hold a meeting to give views but within a period of 7 (seven) days after the invitation the creditor committee does not give the views.

#### Article 84

- (1) The curator is not bound to the views of the creditor committee.
- (2) If the curator does not agree with the views of the creditor committee, the curator must notify the creditor committee of the matter within 3 (three) days.
- (3) If the creditor committee does not agree with the views of the curator, the creditor committee can ask for a stipulation from the supervisory judge 3 (three) days after the notification as meant in paragraph (2).
- (4) If the creditor committee asks for a stipulation from the supervisory judge, the curator must postpone the realization of the action that has been originally planned for 3 (three) days.

#### Paragraph 4 Creditor Meeting

#### Article 85

- (1) In a creditor meeting, the supervisory judge acts as chairman.
- (2) The curator must attend the creditor meeting.

#### Article 86

- (1) The supervisory judge must set the day, date, hour and venue of the first creditor meeting that must be held in no more than 30 (thirty) days after the verdict pertaining to a declaration of bankruptcy has been read out.
- (2) In no more than 3 (three) days after the supervisory judge and the curator have received the verdict pertaining to a declaration of bankruptcy, the supervisory judge must send the curator a plan to hold the first creditor meeting as meant in paragraph (1).
- (3) In no more than 5 (five) days after the curator and the supervisory judge have received the verdict pertaining to a declaration of bankruptcy, the curator must notify the plan to hold the creditor meeting as meant in paragraph (2) to the creditors through delivery letters or couriers and advertisements at least in 2 (two) dailies by observing the provisions in Article 15 paragraph (4).

#### Article 87

- (1) Except if this Law stipulates, all decisions of the creditor meeting are made based on the agreement from  $\frac{1}{2}$  (a half) of the creditors and/or proxies of creditors who show up at the relevant meeting.
- (2) If a creditor attends the creditor meeting but does not exercise his/her rights to vote, his/her vote will be considered as disapproving of the decisions.
- (3) Further provisions on the counting of votes from the creditors as meant in paragraph (1) are to be laid down in a Government Regulation.
- (4) The transfer of claims through claim split after the verdict pertaining to a declaration of bankruptcy has been read out does not result in a vote to a new creditor.
- (5) If the transfer of claims is made thoroughly after the verdict pertaining to a declaration of bankruptcy has been read out, the creditor receiving the transfer of claims will receive a vote from the creditor transferring the claims.

#### Article 88

The creditors who have the right to vote are the creditors recognized, the creditors accepted conditionally, and the carriers of bearer claims that have been verified.

#### Article 89

The creditor who has notified the curator that with regard to the bankruptcy the creditor has appointed a proxy or in a meeting has authorized other person to represent the creditor, all the invitations and notifications must be addressed to the proxy, except if the creditor asks the curator to send the invitations and notifications to the creditors himself/herself or through other proxy.

#### Article 90

- (1) The creditor meeting must be held in accordance with this Law.
- (2) In addition to the meeting as meant in paragraph (1), the supervisory judge can convene a meeting if considered necessary or at the request of:
  - a. The creditor committee; or
  - b. at least 5 (five) creditors that represent  $\frac{1}{5}$  (one fifths) of the all claims recognized or received conditionally.
- (3) The supervisory judge must set the day, date, hour and venue of the meeting.
- (4) The curator must invite all creditors who have the rights to vote through delivery letters or couriers and advertisements at least in 2 (two) dailies as meant in Article 15 paragraph (4).
- (5) The invitation through delivery letters or couriers and advertisements in dailies as meant in paragraph (4) contain programs to be discussed in the meeting.
- (6) The supervisory judge must set a period of grace between the date of invitation and the date of meeting.

Paragraph 5  
Appointment of Judge

Article 91

All stipulations on the management and/or arrangement of bankruptcy wealth are made by the last level of court, except where this Law stipulates otherwise.

Article 92

All stipulations on the management and/or arrangement of bankrupt wealth that are made by the judge can be implemented first, except where this Law stipulates otherwise.

Part Four

Actions Taken After Declaration of Bankruptcy and Tasks of Curators

Article 93

- (1) The court, with the verdict pertaining to a declaration of bankruptcy or anytime afterwards, at the recommendation of the supervisory judge, at the request of the curator or at the request of one creditor or more, and after hearing the supervisory judge, can order the arrest of bankrupt debtor, whether he/she will be detained at the correctional facility or put in a house arrest, under the supervision of the judge appointed by the supervisory judge.
- (2) The order for the arrest of bankrupt debtor as meant in paragraph (1) is implemented by the judge appointed by the supervisory judge.
- (3) The arrest period as meant in paragraph (2) begins to take effect in no more than 30 (thirty) days after the arrest is made.
- (4) At the end of the period of grace as meant in paragraph (3), at the recommendation of the supervisory judge or at the request of one curator or creditor or more and after hearing the supervisory judge, the court can extend the arrest period anytime within a period of no more than 30 (thirty) days.
- (5) The cost of arresting the bankrupt debtor is borne by the bankrupt wealth as the debtor of the bankrupt wealth.

Article 94

- (1) The court is authorized to free the bankrupt debtor from the prison at the recommendation of the supervisory judge or at the request of the bankrupt debtor, on bail from the third party that the bankrupt debtor is ready to show up anytime to fulfill the first summons.
- (2) The amount of bail as meant in paragraph (1) is set by the court and if the bankrupt debtor fails to show up, the bail will become the advantage of bankrupt wealth.

Article 95

The request for the arrest of the bankrupt debtor must be approved if the request is based on the reason that the bankrupt debtor has knowingly failed to meet the obligation as meant in Article 98, Article 110 or Article 121 paragraph (1) and paragraph (2).

Article 96

- (1) If the presence of the bankrupt debtor in an action related to the bankrupt wealth is needed, and if the bankrupt debtor is taken into custody, the bankrupt debtor can be picked up from the custody at the order of the supervisory judge.
- (2) The order as meant in paragraph (1) is executed by the public prosecutor's office.

#### Article 97

During the bankruptcy, the bankrupt debtor is banned from leaving his/her domicile without prior consent from the supervisory judge.

#### Article 98

After his/her appointment, the curator must make every effort to safeguard the bankrupt wealth and keep all letters, documents, money, jewelry, stocks and other securities by giving receipts.

#### Article 99

- (1) The curator can ask the court to seal the bankrupt wealth on reason to safeguard the bankrupt wealth through the supervisory judge.
- (2) The confiscator seals the bankrupt wealth as meant in paragraph (1) in the place of the bankrupt wealth in the presence of 2 (two) witnesses, one of whom is representative from the relevant regional government.

#### Article 100

- (1) The curator must record the bankrupt wealth in no more than 2 (two) days after receiving the decision on his/her appointment as a curator.
- (2) The recording of the bankrupt wealth can be done under the supervision of the curator after securing approval from the supervisory judge.
- (3) Members of the provisional creditor committee are entitled to witness the recording of the bankrupt wealth.

#### Article 101

- (1) The items as meant in Article 98 must be recorded in the list of bankrupt wealth.
- (2) The items as meant in Article 22 letter a must be contained in the report attached to the list as meant in Article 100.

#### Article 102

Shortly after a list of bankrupt wealth is made, the curator must make a list that states the characteristics and amount of claims and debts of bankrupt wealth, name and place of stay of creditors along with the amount of claims of each creditor.

#### Article 103

The curator must make available the list of bankrupt wealth as meant in Article 100 and the list as meant in Article 102 in the office of the clerk of court to enable anybody to see them free of charge.

#### Article 104

- (1) Based on the approval from the provisional creditor committee, the curator can continue the business of the debtor declared bankrupt despite an appeal against or a request for a review of the verdict pertaining to a declaration of bankruptcy.
- (2) If no creditor committee is appointed in connection with bankruptcy, the curator needs a permit from the supervisory judge to continue the business as meant in paragraph (1).

#### Article 105

- (1) The curator is authorized to open letters and telegrams addressed to the bankrupt debtor.
- (2) The letters and telegrams that have nothing to do with bankrupt wealth must be sent to the bankrupt debtor soon.

- (3) The mail and telegrams service companies must give the curator letters and telegrams addressed to the bankrupt debtor.
- (4) All letters of complaint and objection related to bankrupt wealth must be addressed to the curator.

#### Article 106

The curator is authorized according to the condition to give the amount of money set by the supervisory judge for the living cost of the bankrupt debtor and his family.

#### Article 107

- (1) Based on the approval from the supervisory judge, the curator can divert the bankrupt wealth where necessary to cover the cost of bankruptcy or if the impounding of the bankrupt wealth inflicts losses to the bankrupt wealth despite as appeal against and a request for a review of the verdict pertaining to a declaration of bankruptcy.
- (2) The provision in Article 185 paragraph (1) also applies to paragraph (1).

#### Article 108

- (1) Money, Jewelry, stocks, and other securities must be kept by the curator himself/herself, except where the supervisory judge stipulates otherwise.
- (2) The curator must keep cash that is not needed to take care of bankrupt wealth in the bank in the interest of the bankrupt wealth after securing approval from the supervisory judge.

#### Article 109

The curator, after asking for suggestions from the provisional creditor committee, if any, and with permission from the supervisory judge, is authorized to strive for peace to put an end to an ongoing case or prevent the occurrence of a case.

#### Article 110

- (1) The bankrupt debtor must meet with the supervisory judge, the curator or the creditor committee if invited to provide information.
- (2) If a husband or wife is declared bankrupt, the wife or husband declared bankrupt must provide information on all the actions taken by the husband or wife against the collective wealth.

#### Article 111

Where a legal entity is declared bankrupt, the provisions in Article 93, Article 94, Article 95, Article 96 and Article 7 will only apply to the board of executive directors of the legal entity, and the provision in Article 110 paragraph (1) will apply to the board of executive directors and the board of directors of the legal entity.

#### Article 112

At the request and cost of each curator, the clerk of court must provide the interested parties with copies of the letters made available in the office of the clerk of court.

### Part Five Claim Verification

#### Article 113

- (1) In no more than 14 (fourteen) days after the verdict pertaining to a declaration of bankruptcy has been read out, the supervisory judge must set :
  - a. A deadline for the collection of claims;

- b. A deadline for the verification of taxes to determine the amount of taxes in accordance with the existing taxation law;
  - c. Day, date, time and venue of a creditor meeting to verify claims.
- (2) The span of time between the dates as meant in paragraph (1) letter a and letter b must be a minimum of 14 (fourteen) days.

#### Article 114

In no more than 5 (five) days after the stipulation as meant in Article 113 the curator must notify the stipulation to all creditors whose addresses are known by means of letters and announce it in at least 2 (two) dailies as meant in Article 15 paragraph (4).

#### Article 115

- (1) All creditors must transfer their respective claims to the curator by providing the calculation or other written information that indicates the characteristics and amount of claims, along with evidences and copies, and statement on whether or not the creditors have special privileges, mortgage, fiducial guarantee, guarantee rights, and collateral rights over other items or rights to hold items.
- (2) In connection with the transfer of claims as meant in paragraph (1), the creditors are entitled to obtain receipts from the curator.

#### Article 116

- (1) The curator must :
- a. Verify the calculation of claims transferred by the creditors against the records made by the curator previously and information from the bankrupt debtor; or
  - b. Consult the creditors in case of objection to claims received.
- (2) The curator as meant in paragraph (1) is entitled to ask the creditors to hand over letters, including showing the original of records and evidences.

#### Article 117

The curator must enter claims that have been agreed upon into a list of temporarily-recognized claims, while claims that have been denied including the reasons for the denial must be recorded in a separate list.

#### Article 118

- (1) In the list as meant in Article 117, notes must be attached to the document on each claim whether or not the relevant claims receives special privileges by mortgage, fiducial guarantee, guarantee right, collateral right to the other items, or the right to hold the items for the relevant claims that can be implemented.
- (2) If the curator only denies the existence of right to hold items, the relevant claims must be entered into the list of temporarily-recognized claims, including the records of the curator about the denial and its reason.

#### Article 119

The curator must make available copies of each of the lists as meant in Article 117 in the office of the clerk of court for 7 (seven) days before the verification of claims and everybody can watch them free of charge.



#### Article 120

The curator must notify the known creditors of the lists as meant in Article 119 by means of letters, along with invitations to attend a meeting on the verification of claims by mentioning a plan for peace if it has been submitted by the bankrupt debtor.

#### Article 121

- (1) The bankrupt debtor himself/herself must attend the meeting on the verification of claims in order to provide information as requested by the supervisory judge on the cause of the bankruptcy and the condition of bankrupt wealth.
- (2) The creditor can ask for information from the bankrupt debtor about the matters disclosed through the supervisory judge.
- (3) The questions raised to and the answers given by the bankrupt debtor must be recorded in an official report.

#### Article 122

If a corporate body is declared bankrupt, all the obligations as meant in Article 121 paragraph (1) and paragraph (2) become the responsibility of the management of the corporate body.

#### Article 123

In the meeting as meant in Article 121, the creditor can show up by himself/herself or appoint his/her proxy to represent him/her.

#### Article 124

- (1) In the meeting as meant in Article 121, the supervisory judge must read out the list of temporarily-recognized claims and the list of claims denied by the curator.
- (2) Every creditor whose name is included in the list of claims as meant in paragraph (1) can ask for information from the curator about each claim and its placement in this list or can deny the truth of the claim, the existence of the right to receive priority, the right to hold items, or the right to approve the denial from the curator.
- (3) The curator is entitled to withdraw temporary confession or denial, or ask the creditor to reinforce through an oath the truth of claims that have been denied by the curator or by one of creditors.
- (4) If the original creditor has died, the successors of the original creditor must explain by taking an oath that they are convinced that the claims exist and have not been settled.
- (5) If considered necessary to postpone a meeting, the supervisory judge must set the date of the next meeting to be held in 8 (eight) days after the first meeting is adjourned, without invitations.

#### Article 125

- (1) The creditor himself/herself or his/her proxy must take an oath as meant in Article 124 paragraph (3) and paragraph (4), both in the said meeting or in other day stipulated by the supervisory judge.
- (2) If the creditor who is ordered to take an oath does not show up or is not represented in the meeting, the clerk of court must notify the creditor of the order to take an oath and the given day to take the oath.
- (3) The supervisory judge must inform the creditor of the oath already taken, except if the oath is taken in a creditor meeting it must be recorded in an official report of the relevant meeting.

#### Article 126

- (1) The claims that are not denied must be transferred to the list of recognized claims included in the official report of the meeting.

- (2) If the claims take the form of bearer documents and substitute documents, the curator must record the acknowledgement in the relevant documents.
- (3) The claims that must be reinforced with an oath as requested by the curator are received conditionally until they are received exactly after the oath is taken at the time as meant in Article 125 paragraph (1).
- (4) The official report of a meeting must be signed by the supervisory judge and the substitute clerk of court.
- (5) The acknowledgement of a claim recorded in the official report of a meeting has fixed legal force in the bankruptcy and the curator cannot file a suit against the annulment of the claim, except in the case of swindle.

#### Article 127

- (1) In case of denial while at the same time the supervisory judge cannot bring peace between the two sides despite the fact that case has been referred to the court, the supervisory judge must order the two sides to settle the dispute in the court.
- (2) The lawyers that represent the sides must be those as meant in Article 7.
- (3) The case as meant in paragraph (1) must be investigated in a simple way.
- (4) If the creditor who asks for the verification of his/her claims does not show up in the given meeting, the relevant party will be considered to have withdrawn his/her request and if the party that lodges denial also does not show up, the relevant party will be considered to have given up his/her denial and therefore, the judge must recognize the relevant claims.
- (5) The creditor who in the meeting on the verification of claims does not lodge denial is not allowed to join or interfere in the relevant case.

#### Article 128

- (1) The examination of denial lodge by the curator is deferred for the sake of law given the endorsement of peace in the bankruptcy, except if the documents pertaining to the case have been submitted to the judge for settlement on condition that :
  - a. If the claims are accepted, the claims are considered to have been recognized in the bankruptcy;
  - b. The court fees are borne by the bankrupt debtor.
- (2) The debtor can take over the deferred case as meant in paragraph (1) from the curator based on the documents pertaining to the case as meant in paragraph (1), represented by a lawyer.
- (3) Where the takeover of the deferred case as meant in paragraph (2) never occurs, the opposite party is entitled to invite the debtor to take over the case.
- (4) If the debtor does not show up, the verdict on absence can be meted out according to the Civil Code.
- (5) If the denial is lodged by the participating creditor, after the verdict on the endorsement of peace in the bankruptcy has received fixed legal force, the case can be continued by the parties only to request the judge to decide the court fees.

#### Article 129

The creditor whose claims is denied is put under no obligation to file more evidence to reinforce the claim than the actual evidence that should be filed to the bankrupt debtor.

#### Article 130

- (1) If the creditor whose claims is denied does not show up in the meeting, the confiscator in no more than 7 (seven) days after the absence of the creditor must notify the creditor by means of an official letter about the denial already filed.

- (2) In the creditor questions the denial as meant in paragraph (1), the creditor cannot use it as a reason for the absence of notification in the said case.

#### Article 131

- (1) The supervisory judge can conditionally accept the denied claims up to the amount set by the supervisory judge.
- (2) If the denial concerns the rating of claims, the supervisory judge can conditionally acknowledge the rating of claim.

#### Article 132

- (1) The bankrupt debtor is entitled to deny the acceptance of claims, either wholly or partially, or deny the rating of claim by disclosing the reason in a simple way.
- (2) The denial as meant in paragraph (1) is recorded in the official report of the meeting, along with the reason.
- (3) The denial as meant in paragraph (2) does not obstruct the acknowledgement of claims in the bankruptcy.
- (4) The denial that makes no mention of the reason or the denial that is not addressed to all claims and does not firmly state part of claims acknowledged or part of claims denied is not considered denial.

#### Article 133

- (1) The claims that is transferred to the curator after the period of time as meant in Article 113 paragraph (1) has passed, on condition that the claims is transferred 2 (two) days at the latest before the meeting on the verification of claims is held, must be verified if there is request filed in the meeting and there is no objection filed by the curator or one of the creditors that show up in the meeting.
- (2) The claim that is filed after the given period of time as meant in paragraph (1) has passed is not verified.
- (3) The provisions on the period of time as meant in paragraph (1) and paragraph (2) do not apply if the creditor is domiciled outside the Republic of Indonesia that constitutes an obstacle to report himself/herself earlier.
- (4) If the objection as meant in paragraph (1) is filed or if there is dispute over the existence or non-existence of obstacle as meant in paragraph (3) the supervisory judge must issue a verdict after asking for advice from the meeting.

#### Article 134

- (1) The interest on debts that arise after the verdict pertaining a declaration of bankruptcy has been read out cannot be verified, except and only if it is guaranteed by mortgage, fiducial guarantee, guarantee right, or collateral right over other items.
- (2) The interest guaranteed by the collateral right as meant in paragraph (1) must be verified on a pro memory basis.
- (3) If the relevant interest cannot be settled by proceeds from the sale of items used as collateral, the relevant creditor cannot exercise his/her right and verify the claims.

#### Article 135

The total amount of claims under the terms of cancellation must be verified without reducing the consequence of the terms of cancellation if the terms are met.

#### Article 136

- (1) The value of claims under terms of deferment can be verified at the time when the verdict pertaining to a declaration of bankruptcy is read out.
- (2) If the curator and the creditor fail to reach an agreement on the method of verifying claims, the total amount of claims must be accepted conditionally.

#### Article 137

- (1) The value of claims that remain obscure at the time of being collected or given the right to obtain periodic payments must be verified at the time when the verdict pertaining to a declaration of bankruptcy is read out.
- (2) All claims that can be collected in 1 (one) year after the date when the verdict pertaining to a declaration of bankruptcy is read out must be treated as claims that can be collected on the date.
- (3) The value of all claims that can be collected 1 (one) year after the verdict pertaining to a declaration of bankruptcy has been read out must be verified for a period of 1 (one) year after the verdict pertaining to a declaration of bankruptcy has been read out.
- (4) In calculating the value of claims as meant in paragraph (2) and paragraph (3), the following matters must be observed :
  - a. The time and method of paying installments;
  - b. Possible profit; and
  - c. The amount of interest if included in an agreement.

#### Article 138

The creditor whose claims is guaranteed by mortgage, fiducial guarantee, guarantee right, or collateral right over other items, or is given the special privilege over certain items in the bankrupt wealth and can prove that part of the claim cannot likely be settled using proceeds from the sales of items used as collateral, can ask for the right owned by the concurrent creditor over part of the claim, without reducing the right to receive priority to items used as collateral for the claims.

#### Article 139

- (1) The claims whose value is not set, is not certain, is not stated in the currency of the Republic of Indonesia or is not totally stated in currency must be verified according to the estimate of value in the currency of the Republic of Indonesia.
- (2) The value of claims in converted into the currency of the Republic of Indonesia as meant in paragraph (1) at the time when the verdict pertaining to a declaration of bankruptcy is read out.
- (3) The value of claims owned by the creditors as meant in Article 55 paragraph (1) is converted into the currency of the Republic of Indonesia at the time of executing collateral using the middle rate of Bank Indonesia.

#### Article 140

- (1) Bearer claims can be verified by registering the documents without mentioning the name of the carrier or by registering them under the name of the carrier.
- (2) Each of bearer claims that are verified without mentioning the name of carrier as meant in paragraph (1) is considered as a separate claims of creditor.

#### Article 141

- (1) The creditor whose claims is guaranteed by a guarantor can apply for the verification of the claim after being reduced by payments received from the guarantor.
- (2) The guarantor is entitled to apply for the verification of payments made to the creditor.

- (3) In addition to the right as meant in paragraph (2), the guarantor can be accepted conditionally in the verification of the amount that has not been paid by the guarantor and has not been verified by the creditor.

#### Article 142

- (1) In case of mutually guaranteeing debtors with one of them or more being declared bankrupt, the creditor can apply for the settlement of claims to the debtor declared bankrupt until the entire claims are settled.
- (2) Each of the mutually guaranteeing debtors that have the right to file a request for compensation from the bankrupt wealth of the other debtors declared bankrupt can be accepted conditionally in the verification on his/her own.
- (3) If the bankrupt wealth of all the mutually guaranteeing debtors exceeds 100% (one hundred percent) of the claims, the excess must be distributed among the mutually guaranteeing debtors according to the legal relations among them.

#### Article 143

- (1) After the verification of claims has been completed, the curator must issue a report on the condition of bankrupt wealth, and later the creditor must be given all pieces of information the creditor has requested.
- (2) After the meeting is over, the report as meant in paragraph (1), along with the official report of the meeting on the verification of claims must be made available at the office of the clerk of court and the office of the curator.
- (3) Anybody who wants to get copies of the documents as meant in paragraph (2) is subject to fees.
- (4) After the official report of the meeting as meant in paragraph (2) has been made available, the curator, the creditor or the bankrupt debtor can ask the court to improve the official report of the meeting in case of mistakes in the documents of bankruptcy in the official report of the meeting.

#### Part Six

#### P e a c e

#### Article 144

The bankrupt debtor is entitled to offer peace to all creditors.

#### Article 145

- (1) If the bankrupt debtor intends to submit a peace plan and wishes to make it available at the office of the clerk of court to make it visible to all interested parties free of charge in no more than 8 (eight) days before the meeting on the verification of claims, the peace plan must be discussed and approved shortly after the verification of claims is completed, except in the case as meant in Article 147.
- (2) In connection with the peace plan made available at the office of the clerk of court as meant in paragraph (1), copies of the peace plan must be sent to all members of the provisional creditor committee.

#### Article 146

The curator and the provisional creditor committee must respectively give views in writing on the peace plan in the meeting as meant in Article 145.

#### Article 147

The discussion and decision on the peace plan as meant in Article 145 are postponed until the next meeting whose date is set by the supervisory judge in no more than 21 (twenty-one) days, if :

- a. the meeting appoints a permanent creditor committee whose members are not the same as those of the provisional credit committee, while the vast majority of creditors wish for written views from the permanent creditor committee about the proposed peace; or
- b. the peace plan is not made available at the office of the clerk of court at the specified time, while the vast majority of creditors who show up wish for the postponement of the meeting.

#### Article 148

If the discussion and voting on the peace plan as meant in Article 147 are postponed until the next meeting, the curator in no more than 7 (seven) days after the last meeting must notify the recognized creditors or temporarily-recognized creditors who are not present at the meeting on the verification of claims by means of a letter that briefly contains the peace plan.

#### Article 149

- (1) the holders of mortgage, fiducial guarantee, guarantee right, or collateral right over other items and the creditors that receive special privileges including those that have their priority rights denied, are banned from casting vote to the peace plan, except if they have already relinquished their priority rights for the sake of the bankrupt wealth before the voting for the peace plan is held.
- (2) By relinquishing the rights as meant in paragraph (1), they will become concurrent creditors, also if the peace plan is not accepted.

#### Article 150

The bankrupt debtor is entitled to provide information on the peace plan, defend the peace plan and change the peace plan during the negotiations.

#### Article 151

The peace plan will be accepted if it is approved at the creditor meeting by more than  $\frac{1}{2}$  (a half) of concurrent creditors that show up at the meeting and recognized creditors that represent at least  $\frac{2}{3}$  (two-third) of the total recognized or temporarily recognized concurrent claims from the concurrent creditors or their proxies that show up at the meeting.

#### Article 152

- (1) If more than  $\frac{1}{2}$  (a half) of the creditors that show up at the creditor meeting and represent at least  $\frac{1}{2}$  (a half) of the total claims of the creditors that have the right to vote agree to accept the peace plan, in no more than 8 (eight) days after the first voting is held the second voting must be held without extending invitations.
- (2) In the second voting, the creditors are not bound to the votes cast in the first voting.

#### Article 153

A change in the number of creditors and the amount of claims does not influence the validity of the acceptance or refusal of peace.

#### Article 154

- (1) The official report of meeting must contain :
  - a. The essence of peace;
  - b. The name of creditors that are present and entitled to cast vote and meet.

- c. The number of votes issued;
  - d. The result of vote counting; and
  - e. Everything that occurs in the meeting.
- (2) The official report of meeting is signed by the supervisory judge and the substitute clerk of court.
  - (3) Any interested person can see free of charge the official report of meeting as meant in paragraph (1) made available at the office of the clerk of court in no more 7 (seven) days after the meeting.
  - (4) Any body who obtains copies of the official report of meeting as meant in paragraph (3) is subject to fees.

#### Article 155

The creditors that have cast their votes to agree to the peace plan or the bankrupt debtor can ask the court to revise the official report of meeting within a period of 8 (eight) days after the official report of meeting as meant in Article 154 paragraph (3) has been made available if in the documents related to the meeting on the peace plan the supervisory judge has mistakenly considered the peace plan as being refused.

#### Article 156

- (1) If the peace plan is accepted before the meeting is closed, the supervisory judge must set the date of court session to decide whether or not the peace plan will be endorsed.
- (2) In case of a mistake as meant in Article 155, the court must set the date of court session and the curator must notify the creditors by means of letters about the date of court session.
- (3) A court session must be held as early as in 8 (eight) days and in more than 14 (fourteen) days after the peace plan is accepted in the voting or after the court stipulation is issued in case of mistake as meant in Article 155.

#### Article 157

During the session, the creditors can explain to the supervisory judge the reason why they wish for the refusal to endorse they peace plan.

#### Article 158

- (1) In the given day the supervisory judge in an open session gives a written report, while each of the creditors, either in person or through his/her proxy, can explain the reason why he/she wishes for the endorsement or refusal of the peace plan.
- (2) The bankrupt debtor is also entitled to explain the reason why he/she wishes for the endorsement or refusal of the peace plan to defend his/her interests.

#### Article 159

- (1) In the session as meant in Article 158 or in no more than 7 (seven) days after the session is held, the court must issue a stipulation along with the reasons.
- (2) The court must refuse to endorse the peace plan if :
  - a. The wealth of the debtor, including items for which the right to hold an items is exercised, is far bigger than the amount agreed upon in the peace;
  - b. The implementation of peace is not fairly guaranteed; and/or
  - c. The peace is reached due to a swindle or conspiracy with one creditor or more, or the use of other unfair means that ignores whether or not the debtor cooperates with other party to achieve the goal.

#### Article 160

- (1) If the peace plan is refused, both the creditors favoring the peace plan and the bankrupt debtor, in no more than 8 (eight) days after the court verdict is read out, can appeal against the court verdict.
- (2) If the peace plan is approved, in no more than 8 (eight) days after the court verdict is read out, an appeal against the court verdict can be filed by :
  - a. The creditors that are opposed to the peace plan or do not show up in the voting to endorse the peace plan;
  - b. The creditors who favor the peace plan but later find that the peace is reached based on the reasons as meant in Article 159 paragraph (2) letter c.

#### Article 161

- (1) The appeal against the court verdict as meant in Article 160 is filed according to the provisions in Article 11, Article 12 and Article 13.
- (2) The provisions in Article 158, except those related to the supervisory judge and in Article 159 paragraph (1) also apply to the examination of the appeal as meant in paragraph (1).

#### Article 162

The peace endorsed is applicable to all the creditors without exception that have no priority right, either those that have nominated themselves in the bankruptcy or not.

#### Article 163

If the peace plan is refused, the bankrupt debtor can no longer offer a peace plan in the bankruptcy.

#### Article 164

The verdict on the endorsement of peace plan that has fixed legal force constitutes the right for the debtor and all parties that guarantee the implementation of the peace plan in connection with recognized claims as long as the bankrupt debtor does not deny it according to provisions in Article 132 as meant in the official report of meeting on the verification of claims.

#### Article 165

- (1) Even though there has been peace, the creditor continues to have the right to guarantors and fellow debtors.
- (2) The creditor continues to have the right to the items of the third party as if there had been no peace.

#### Article 166

- (1) If the endorsement of peace has obtained fixed legal force, the bankruptcy will end accordingly.
- (2) The curator must announce the peace as meant in paragraph (1) in the State Gazette of the Republic of Indonesia and at least in 2 (two) dailies as meant in Article 15 paragraph (4).

#### Article 167

- (1) After the endorsement of peace has obtained fixed legal force, the curator must take responsibility to the debtor before the supervisory judge.
- (2) If the peace does not stipulates otherwise, the curator must return all items, money, books and documents belonging to bankrupt wealth to the debtor by receiving legal receipts.

#### Article 168



- (1) The amount of money that becomes the right of creditors and has been verified based on the recognized special right and the cost of bankruptcy must be directly transferred to the curator, except if the debtor has given guarantees to the effect.
- (2) As long as the obligation as meant in paragraph (1) has not been met, the curator must hold all items and money belonging to bankrupt wealth.
- (3) If after the period of 30 (thirty) days since the endorsement of peace received fixed legal force the debtor fails to meet the obligation as meant in paragraph (1), the curator must settle the obligation using the available bankrupt wealth.
- (4) The amount of debts as meant in paragraph (1) and part that must be transferred to each creditor based on the special right are set by the supervisory judge if necessary.

#### Article 169

If the claim whose special right is recognized conditionally, the obligation as meant in Article 168 is limited to the provision of guarantees, and if the provision of guarantees is not fulfilled, the curator is only required to provide an amount of reserves from the bankrupt wealth as much as the special right.

#### Article 170

- (1) The creditor can demand the cancellation of peace that has been already endorsed if the debtor ignores to meet the content of the peace.
- (2) The debtor must prove that the peace has been met.
- (3) The court is authorized to give leniency to the debtor to met his/her obligation in no more than 30 (thirty) days after the verdict on the granting of leniency has been read out.

#### Article 171

The demand for the cancellation of peace must be filed and stipulated in the same way as that referred to in Article 7, Article 8, Article 9, Article 11, Article 12 and Article 13 for the application for a declaration of bankruptcy.

#### Article 172

- (1) The verdict pertaining to the cancellation of peace must contain a clause ordering the re-opening of bankruptcy by appointing a supervisory judge, curator and members of the creditor committee, if such a committee is found in the previous verdict on bankruptcy.
- (2) The supervisory judge, curator and members of the creditor committee as meant in paragraph (1), are appointed, if possible, from those that have occupied the posts in the previous verdict on bankruptcy.
- (3) The curator must notify and announce the verdict as meant in paragraph (1) through the method as meant in Article 15 paragraph (4).

#### Article 173

- (1) If bankruptcy is reopened, it shall be subject to Article 17 paragraph (1), Article 19, Article 20, Article 21, Article 22, and articles in Part Two, Part Three and Part Four of Chapter II of this Law.
- (2) The bankruptcy process shall also be subject to provisions on the verification of claims limited to claims that have not been collected.
- (3) The creditors whose claims have been verified must be invited to attend a meeting on the verification of claims and have the right to deny the claims whose receipts are sought.

#### Article 174

Without reducing the validity of Article 41, Article 42, Article 43, and Article 44, in case of reasons to that effect, all actions taken by the debtor in the period of time between the endorsement of peace and the reopening of bankruptcy must bind the bankrupt wealth.

#### Article 175

- (1) After the bankruptcy has been reopened, no peace can be offered.
- (2) The curator must instantly begin the bankruptcy process by taking care of bankrupt wealth.

#### Article 176

If the bankruptcy is reopened, the bankrupt wealth must be distributed among the creditors through the following methods :

- a. If the old and new creditors have not received payments, the results of the cashing of bankrupt wealth must be distributed among them on a pro-rata basis;
- b. If part of the old creditors have received payments, the old and new creditors are entitled to receive payments according to the percentage agreed upon in the peace agreement;
- c. The old and new creditors have received payments on a pro-rata basis in connection with the remaining bankrupt wealth after being reduced by the payments as meant in letter b until all the recognized claims are fulfilled;
- d. The old creditors who have received payments are put under no obligation to return the payments they have received.

#### Article 177

The provisions in Article 176 are mutadis mutandis enforced in case the debtor is once again declared bankrupt, while at the time the relevant party has not met all the obligations in the peace agreement.

### Part Seven

#### Taking Care of Bankrupt Wealth

#### Article 178

- (1) If in the meeting on the verification of claims no peace plan is offered, the offered peace plan is not accepted, or the endorsement of peace plan is refused based on the verdict that has already had fixed legal force, the legal instrument underlying the bankrupt wealth will be in a state of insolvency.
- (2) The provisions in Article 104 and Article 106 will not be applicable if the bankrupt debtor is not continued according to the articles below or if the continuation of the businesses is stopped.

#### Article 179

- (1) If in the meeting on the verification of claims no peace plan is offered or if the offered peace plan is not accepted, the curator or creditors that are present at the meeting can propose the continuation of the company of the bankrupt debtor.
- (2) If there is a creditor committee and the proposal is filed by the creditor, the creditor committee and the curator must give views on the proposal.
- (3) At the request of the curator or one of the creditors that are present, the supervisory judge shall adjourn the meeting to discuss and decide the proposal until the next meeting to be held in no more than 14 (fourteen) days after the previous meeting.
- (4) The curator must immediately notify the creditors that are not present in the meeting about the planned meeting by means of letters containing the proposal and remind the creditors of the provisions in Article 119.

- (5) In the meeting as meant in paragraph (4), if necessary, verification can be made for claims that are filed after the end of the grace period as meant in Article 113 paragraph (1) and have not been verified according to provisions in Article 133.
- (6) Where the claims as meant in paragraph (5) are concerned, the curator must act according to provisions in Article 116, Article 117, Article 118 and Article 119.

#### Article 180

- (1) the proposal to continue the company as meant in Article 179 paragraph (1) must be accepted if the proposal is approved by the creditors representing  $\frac{1}{2}$  (a half) of all the recognized and temporarily accepted claims that are not guaranteed by mortgage, fiducial guaranteed, guarantee right or collateral right over other items.
- (2) In case of no creditor committee, the provisions in Article 80 shall be applied.
- (3) The official report of a meeting must contain the names of creditors that are present, the vote cast by each creditor, the result of vote counting, and anything that occur during the meeting.
- (4) Any interested person can watch free of charge the official report of the meeting as meant in paragraph (3) made available in no more than 7 (seven) days after the conclusion of the meeting at the office of the clerk of court.

#### Article 181

- (1) If within 8 (eight) days after the verdict on the refusal to endorse peace receives fixed legal force the curator or the creditor submits a proposal to the supervisory judge to continue the company of bankrupt debtor, the supervisory judge must hold a meeting in no more than 14 (fourteen) days after the proposal has been submitted to the supervisory judge.
- (2) The curator must invite creditors in no more than 10 (ten) days before the meeting is held using a letter the mentions the submitted proposal and in the letter the creditor must be remind of the provisions in Article 119.
- (3) The curator must advertise the same invitation in at least 2 (two) dailies as meant in Article 15 paragraph (4).
- (4) The provisions in Article 179 paragraph (2), paragraph (5), paragraph (6) and Article 180 also apply.

#### Article 182

During 8 (eight) days after the conclusion of the meeting, if from the documents the supervisory judge has mistakenly considered the proposal as being refused or accepted, the curator or the creditor can ask the court to once again state that the proposal has been accepted or refused.

#### Article 183

- (1) At the request of the creditor or the curator, the supervisory judge can order an end to the continuation of the company.
- (2) In case of the request as meant in paragraph (1), the creditor committee, if any, must be heard and the curator must also be heard if the proposal is not filed by the curator.
- (3) The supervisory judge can also hear the creditor and the bankrupt debtor.

#### Article 184

- (1) By constantly observing the provisions in Article 15 paragraph (1), the curator must begin arranging and selling all the bankrupt wealth without having to receive approval or assistance from the debtor if :
  - a. The proposal to manage the company of the debtor is not filed within a period of time as meant in this Law, or the proposal has been filed but refused; or

- b. The management of the company of the debtor is stopped.
- (2) If the company is continued the sales of items including bankrupt wealth that are not needed to continue the company can be sold.
- (3) The bankrupt debtor can merely be given a set of household utensils and accessories, medical instruments used for health, or office utensils stipulated by the supervisory judge.

#### Article 185

- (1) All the items must be sold before the public according to the procedure specified in the law and regulation.
- (2) If the sales of items before the public as meant in paragraph (1) cannot materialize, the underhanded sales of items can be done with approval from the supervisory judge.
- (3) If all the items are not immediately or cannot totally be arranged the curator must decide the measure to handle the items with permission from the supervisory judge.
- (4) The curator is put under an obligation to pay the claims of the creditors that have the authority to hold an items so that the items will return and benefit the bankrupt wealth.

#### Article 186

For the purpose of arranging bankrupt wealth, the curator can use the services of the bankrupt debtor by providing recompenses set by the supervisory judge.

#### Article 187

- (1) After the bankrupt wealth is in the state of insolvency, the supervisory judge can convene a meeting of creditors in the specified day, time and venue to hear their explanations on the procedure of arranging the bankrupt wealth and if necessary, to verify claims that are filed after the end of the grace period as meant in Article 113 paragraph (1) and have not been verified as meant in Article 133.
- (2) Where the claims as meant in paragraph (1) are concerned, the curator must take an action as meant in Article 116, Article 117, Article 118, Article 119 and Article 120.
- (3) The curator must advertise the same invitation in the daily as meant in Article 15 paragraph (4).
- (4) The supervisory judge must set the grace period of at least 14 (fourteen) days between the date of invitation and the date of meeting.

#### Article 188

If the supervisory judge opines that there is enough cash, the curator must distribute it among the creditors whose claims have been verified.

#### Article 189

- (1) The curator must draw up a list of distributed wealth for approval by the supervisory judge.
- (2) The list of distributed wealth as meant in paragraph (1) contains details of receipts and expenditures including recompenses for the curator, names of creditors, the amount of each claim verified, and portion to be received by creditors.
- (3) The concurrent creditors must be given portion to be set by the supervisory judge.
- (4) Payments to the creditors :
  - a. Who have special privilege, including those whose special privileges are denied; and
  - b. The holders of mortgage, fiducial guarantee, guarantee right, or collateral right over other items, provided they are not paid according to the provisions in Article 55, can be made using proceeds from the sales of items to which they have the special privilege or which are used as collateral to them.

- (5) If the proceeds from the sales of items as meant in paragraph (4) are not enough to pay all the claims of the creditors who are given priority, the remaining claims will be paid to them in the capacity as concurrent creditors.

#### Article 190

If the claims of creditors are accepted conditionally, the portion of the creditors in the list of distributed wealth will be calculated based on the percentage of the total claims.

#### Article 191

All the costs of bankruptcy are borne by each item that constitutes part of the bankrupt wealth, except if the item which according to provisions in Article 55 has been sold by the creditors holding mortgage, fiducial guarantee, guarantee right, or collateral right over other items.

#### Article 192

- (1) The list of distributed wealth that has been approved by the supervisory judge must be made available at the office of the clerk of court so that it can be seen by the creditors during the grace period set by the supervisory judge at the time when the list of distributed wealth is approved.
- (2) The list of distributed wealth and the grace period as meant in paragraph (1) are announced by the curator in the daily as meant in Article 15 paragraph (4).
- (3) The grace period as meant in paragraph (1) begins on the day and date of announcing the list of distributed wealth in the daily as meant in paragraph (2).

#### Article 193

- (1) During the grace period as meant in Article 192 paragraph (1) the creditors can oppose the list of distributed wealth by filing an objection including the reasons to the clerk of court by receiving a receipt.
- (2) The objections as meant in paragraph (1) is attached to the list of distributed wealth.

#### Article 194

- (1) If an opposition is filed, shortly after the expiry of the grace period as meant in Article 192, the supervisory judge sets the day to examine the opposition in a court session open to the public.
- (2) The decision of the supervisory judge on the session day must be made available at the office of the clerk of court so that everybody can see it free of charge.
- (3) The confiscator must notify in writing the opposing party and the curator of the list of distributed wealth.
- (4) The session date must be set in no more than 7 (seven) days after the expiry of the grace period set according to Article 192 paragraph (3).
- (5) In the court session open to the public as meant in paragraph (4) the supervisory judge provides a written report, while the curator and each creditor or proxy can support or deny the list of distributed wealth by providing the reasons.
- (6) In the first session day or 7 (seven) days at the latest, the court must issue a verdict accompanied by sufficient legal considerations.

#### Article 195

- (1) The creditors whose claims have not been verified and the creditors whose claims have been verified for the amount lower than their own report can file a conditional opposition in no more than 2 (two) days before the opposition is examined in the court session, on the stipulation that :
  - a. The claims or part of the claims that have not been verified must be filed to the curator;

- b. Copies of claim documents and receipts from the curator must be attached to the letter of opposition;
  - c. The letter of opposition also contains a request for the verification of the claims or part of the claims.
- (2) The verification as meant in paragraph (1) is made in the court session through the specified method as meant in Article 124 and the following articles before the letter of opposition is examined.
  - (3) If the opposition is only designed to ask for the verification of the opposing creditor's claims and no other creditors file opposition, the cost of filing the opposition must be borne by the opposing creditor.

#### Article 196

- (1) The curator or the creditor can appeal against the court verdict as meant in Article 194 paragraph (6).
- (2) The appeal against the court verdict as meant in paragraph (1) must be made according to the provisions in Article 11, Article 12 and Article 13.
- (3) For the purpose of examining the appeal against the court verdict, the Supreme Court can summon the curator or the creditor for hearing.
- (4) After the grace period as meant in Article 192 has passed and no creditor files oppositions or opposition has been decided by the court, the list of distributed wealth becomes binding.

#### Article 197

The supervisory judge must order the scrapping of mortgage, guarantee right, or fiducial guarantee that burdens items belonging to the bankrupt wealth shortly after the list of distributed wealth that contains a report to account for proceeds from the sales of the items becomes binding.

#### Article 198

- (1) The distribution of wealth earmarked for the creditors whose claims are temporarily recognized is not made as long as there is no verdict on their claims that has fixed legal force.
- (2) If the creditors prove that they have no claims or their claims are less than the money earmarked for them, the money that were originally earmarked for them, either partially or wholly, will become the benefit of other creditors.
- (3) If the portion earmarked for the creditors whose priority rights are denied exceeds the percentage of portion that must be paid to the concurrent creditors, for the time being the portion must be reserved until there is verdict on priority right.

#### Article 199

If an item carries certain priority right, mortgage, fiducial guarantee or collateral right over other items is sold, after the creditors that have priority right are given the distribution of wealth according to Article 189 at the time when is distributed again, proceeds from the sales of the item will be paid to the creditors as much as a maximum of the value of the priority right after being reduced by the amount received previously.

#### Article 200

- (1) The creditors who because of their ignorance verify their claims only after the distribution of wealth is made can be given a sum taken earlier from the remaining cash, in proportion to that received by other recognized creditors.

- (2) The creditors who have priority right will lose the right to proceeds from the sales of the relevant items if the proceeds in the previous list of distributed wealth have been earmarked for other creditors who have priority right.

#### Article 201

After the expiry of the grace period to see the list of distributed wealth as meant in Article 192, or if opposition has been filed after the verdict on the opposition is read out, the curator must soon pay the distribution that has been specified to the creditors.

#### Article 202

- (1) Soon after the creditors whose claims have been verified receive payments of their claims in full, or soon after the closing list of distributed wealth becomes binding, the bankruptcy process is over, without reducing the validity of the provisions in Article 203.
- (2) The curator shall announce the conclusion of the bankruptcy process in the State Gazette of the Republic of Indonesia and dailies as meant in Article 15 paragraph (4).
- (3) The curator must account for the management and arrangement of wealth to the supervisory judge in no more than 30 (thirty) days after the conclusion of the bankruptcy process.
- (4) All the books and documents on bankruptcy wealth kept by the curator must be handed over to the debtor by means of valid receipt.

#### Article 203

If after the closing distribution of wealth is made the distribution of wealth that were originally reserved as meant in Article 198 paragraph (3) goes back to the bankrupt wealth, or if it turns out that part of bankrupt wealth is unknown at the time when the arrangement is made, at the order of the court the curator must arrange and distribute it among the creditors based on the previous list of distributed wealth.

### Part Eight

#### The Legal Condition of Debtor after the Conclusion of Arrangement.

#### Article 204

After the closing list of distributed wealth becomes binding, the creditors deserve again execution rights to the wealth of the debtor with regard to their claims that remain unpaid.

#### Article 205

- (1) the acknowledgement of claims as meant in Article 126 paragraph (5) has fixed legal force against the debtor like the court verdict that has fixed legal force.
- (2) A summary of the official report of a meeting on the verification of claims which is made in the form of verdict that can be executed serves as the basis of right that can be executed against the debtor with regard to recognized claims.

#### Article 206

The provisions in Article 205 do not apply, so long as the relevant claims are denied by the bankrupt debtor as meant in Article 131.

### Part Nine

#### Bankruptcy of Inherited Wealth

#### Article 207

The wealth of the person who dies must be declared in a state of bankruptcy if two creditors or more file a request to that effect and can briefly prove that :

- a. The debt of the person who dies remains unsettled when h/she is alive; or
- b. At the time when the person dies, the inherited wealth is not enough to pay the debt.

#### Article 208

- (1) The request as meant in Article 207 must be filed to the court whose judicial territory covers the last domicile of the person who dies.
- (2) The beneficiaries must be summoned by means of a letter from the confiscator to respond to the request.
- (3) The summons as meant in paragraph (2) must be sent to the last domicile of the debtor who dies, with out having to mention the name of each of the beneficiaries, except if their names are known.

#### Article 209

The verdict pertaining to a declaration of bankruptcy leads, for the sake of law, to the separation of the wealth of the person who dies from that of his/her beneficiaries.

#### Article 210

An application for a declaration of bankruptcy must be filed to the court in no more than 90 (ninety) days after the debtor dies.

#### Article 211

The provisions on peace as meant in Article 144 up to Article 177 do not apply to the bankruptcy of inherited wealth, except if the inherited wealth has been purely received by the beneficiaries.

### Part Ten

#### International Laws

#### Article 212

The creditors who after the verdict pertaining to a declaration of bankruptcy is read out take the settlement of their claims, either partially or wholly, from the items belonging to the bankrupt wealth located outside the territory of the Republic of Indonesia, to which they are not bound with priority rights, must compensate the bankrupt wealth for whatever they have received.

#### Article 213

- (1) The creditors who transfer their claims to the bankrupt debtor to third parties, either partially or wholly, in order that the third parties will get priority over other people in receiving the settlement of their claims, either partially or wholly, from the items belonging to the bankrupt wealth located outside the territory of the Republic of Indonesia, must compensate the bankrupt wealth for whatever they have received.
- (2) Except if the creditors prove otherwise, the transfer of claims must be considered as having been done according to the provision in paragraph (1) if the transfer of claims is done by the creditors and the creditors know that the application for a declaration of bankruptcy has been or will be filed.

#### Article 214



- (1) Anybody who transfers his/her debts or claims, either partially or wholly, to a third party, for which he/she receives the opportunity to match his/her debts outside the territory of the Republic of Indonesia in breach of this Law, must compensate the bankrupt wealth.
- (2) The provision in Article 213 paragraph (2) also applies to the matter as meant in paragraph (1).

#### Part Eleven Rehabilitation

##### Article 215

After the conclusion of the bankruptcy process as meant in Article 166, Article 202 and Article 207, the debtor or his/her beneficiary deserves to apply for the rehabilitation of his/her name to the court that has read out the verdict pertaining to a declaration of bankruptcy.

##### Article 216

The application for the rehabilitation of the debtor or his/her beneficiary will not be approved, except if the application is complete with evidence stating that all recognized creditors have satisfactorily received payments.

##### Article 217

The application for the rehabilitation as meant in Article 216 must be announced in at least 2 (two) dailies appointed by the court.

##### Article 218

- (1) Within a period of 60 (sixty) days after the application for the rehabilitation of the debtor or his/her beneficiary is announced in at least 2 (two) dailies, each recognized creditor can lodge an objection to the application, by sending a letter of objection complete with the reason to the office of the clerk of court and the clerk of court must issue a receipt.
- (2) The objection as meant in paragraph (1) can only be lodged if the requirements as meant in Article 216 are not met.

##### Article 219

After the period of 60 (sixty) days as meant in Article 218 has passed, regardless of whether or not an objection is lodged, the court must approve or refuse the application.

##### Article 220

No legal attempt can be made to challenge the court verdict as meant in Article 219.

##### Article 221

The verdict that approves the rehabilitation of the debtor or his/her beneficiary must be read out in a session open to the public and must be recorded in the general list as meant in Article 20.

### CHAPTER III SUSPENSION OF DEBT REPAYMENTS

#### Part One The Granting of Suspension of Debt Repayments and Its Consequence

##### Article 22

- (1) The application for the suspension of debt repayments is filed by the debtor that has more than 1 (one) creditors or by the creditor.
- (2) The debtor who cannot or believes that he/she cannot continue to repay his/her debts that have become due and can be collected can apply for the suspension of debt repayments with a view to submitting a peace plan that covers an offer to repay the debts to the creditor, either partially or wholly.
- (3) The creditor who believes that the debtor continue to repay his/her debts that have become due or can be collected can apply for the suspension of the debt repayments by the debtor to enable the debtor to submit a peace plan that covers an offer to repay the debts to the creditor, either partially or wholly.

#### Article 223

If the debtor is a bank, stock company, stock exchange, clearing and underwriting institution, deposit and settlement institution, insurance company, reinsurance company, pension fund, or state-owned company engaged in public utilities, only the institutions as meant in Article 2 paragraph (3), paragraph (4) and paragraph (5) can apply for the suspension of debt repayments.

#### Article 224

- (1) The application for the suspension of debt repayments as meant in Article 222 must be filed to the court as meant in Article 3 after being signed by the applicant and his/her lawyer.
- (2) If the applicant is the debtor, the application for the suspension of debt repayments must be complete with a list that contains the characteristics and amount of claims and debts of the debtor as well as other evidence.
- (3) If the applicant is the creditor, the court must summon the debtor through the confiscator by means of a delivery letter in no more than 7 (seven) days before the session.
- (4) In the session as meant in paragraph (3), the debtor submits a list that contains the characteristics and amount of claims and debts of the debtor as well as other evidence and if any, a peace plan.
- (5) A peace plan as meant in Article 222 can be attached to the application as meant in paragraph (2).
- (6) The provisions in Article 6 paragraph (1), paragraph (2), paragraph (3), paragraph (4) and paragraph (5) shall mutatis mutandis apply to the application for the suspension of debt repayments as meant in paragraph (1).

#### Article 225

- (1) The application as meant in Article 224 paragraph (1) and enclosure thereof, if any, must be made available at the office of the clerk of court to enable anybody to see it free of charge.
- (2) If the application is filed by the debtor, the court in no more than 3 (three) days after the application as meant in Article 224 paragraph (1) has been registered must approve the application for the suspension of temporary debt repayments and must appoint a supervisory judge among court judges and appoint 1 (one) manager or more who along with the debtor manage the wealth of the debtor.
- (3) If the application is filed by the creditor, the court in no more than 20 (twenty) days after the application has been registered must approve the application for the suspension of temporary debt repayments and must appoint a supervisory judge among court judges and appoint 1 (one) manager or more who along with the debtor manage the wealth of the debtor.
- (4) Shortly after the verdict pertaining to the suspension of temporary debt repayments is read out, the court through the manager must summon the debtor and known creditors by means of a delivery letter or a courier to show up in the session to be held in no more than 45 (forty-five) days after the verdict pertaining to the suspension of temporary debt repayments is read out.

- (5) If the debtor does not show up in the session as meant in paragraph (4) the suspension of temporary debt repayments will end and the court must declare the debtor bankrupt in the same session.

#### Article 226

- (1) The manager must soon announce the verdict pertaining to the suspension of temporary debt repayments in the State Gazette of the Republic of Indonesia and at least in 2 (two) dailies appointed by the supervisory judge and the announcement must also contain an invitation to the session that constitutes a consultative meeting of judges, along with the date, venue, and time of the session, the name of the supervisory judge and the name address of the manager.
- (2) If before the verdict pertaining to the suspension of temporary debt repayments is read out the debtor has submitted a peace plan, the matter must be mentioned in the announcement, and the announcement must be made in no more than 21 (twenty-one) days before the planned date of the session.

#### Article 227

The suspension of temporary debt repayments is valid starting from the date when the verdict pertaining to the suspension of debt repayments is read out and lasts until the date when the session as meant in Article 226 paragraph (1) is held.

#### Article 228

- (1) In the day when the session as meant in Article 226 paragraph (1) is held, the court must hear the debtor, supervisory judge, manager and creditors who are present, their assistants or proxies appointed based on a power of attorney.
- (2) In the session as meant in paragraph (1), each creditor is entitled to show up although the relevant party does not receive an invitation to that effect.
- (3) If the peace plan is attached to the application for the suspension of temporary debt repayments as meant in Article 224 paragraph (2) or has been submitted by the debtor before the session takes place, the voting for the peace plan can be conducted after the provisions in Article 267 have been met.
- (4) If the provision in paragraph (3) is not met or if the creditors cannot yet cast their votes to the place plan, at the request of the debtor, the creditors must decide whether to approve or refuse the application for the suspension of fixed debt repayments with a view to enabling the debtor, manager, and creditors to take into account and agree to the peace plan in the next session or meeting.
- (5) If the court cannot decide the suspension of fixed debt repayments as meant in paragraph (4) within a period of time as meant in Article 225 paragraph (4), the debtor will be declared bankrupt.
- (6) If the suspension of fixed debt repayments as meant in paragraph (4) is proved, the suspension, along with the extension of the suspension must not exceed 270 (two hundred and seventy) days after the verdict pertaining to the suspension of temporary debt repayments is read out.

#### Article 229

- (1) The court shall decide the granting of the suspension of fixed debt repayments including the extension of the suspension based on
  - a. Approval from more than  $\frac{1}{2}$  (a half) of the concurrent creditors who have their rights recognized and temporarily recognized, are present in the session and represent at least  $\frac{2}{3}$  (two-third) of all the recognized or temporarily recognized claims, and their proxies who are present in the court session; and

- b. Approval from more than  $\frac{1}{2}$  (a half) of the creditors who have their claims guaranteed by mortgage, fiducial guarantee, guarantee right, or collateral right over other items, are present in the session and represent at least  $\frac{2}{3}$  (two-third) of all claims of the creditors or their proxies who are present in the court session.
- (2) The supervisory judge must decide the dispute between the manager and the concurrent creditor over the creditor's vote as meant in paragraph (1) letter a.
- (3) If the application for a declaration of bankruptcy and the application for the suspension of debt repayments are examined at the same time, the application for the suspension of debt repayments must be decided first.
- (4) The application for the suspension of debt repayments submitted after the application for a declaration of bankruptcy against the debtor is filed so that the judge can decide the application first as meant in paragraph (3), must be brought to the first court session to examine the application for a declaration of bankruptcy.

#### Article 230

- (1) If the period of time for the suspension of temporary debt repayments is over, however, the creditor does not approve the granting of the suspension of fixed debt repayments or the extension of the suspension has been granted but until the deadline as meant in Article 228 paragraph (6) no agreement on the peace plan has been reached, the management at the end of the deadline must notify the matter through the supervisory judge to the court that must declare the debtor bankrupt in no more than the ensuing day.
- (2) The management must announce the matters as meant in paragraph (1) in the daily where the application for the suspension of temporary debt repayments is announced based on Article 225.

#### Article 231

- (1) The court must appoint a creditor committee, if
  - a. The application for the suspension of debt repayments including complicated debts or debts involving many creditors; or
  - b. The appointment is so desired by the creditors that represent at least  $\frac{1}{2}$  (a half) of the total recognized claims.
- (2) In performing their duties, the management must ask for and take into account suggestion from the creditor committee.

#### Article 232

- (1) The clerk of court must make a general list of cases on the suspension of debt repayments by mentioning the following matters for each suspension of debt repayments :
  - a. The date of decision on the suspension of temporary debt repayments and the date of decision on the suspension of fixed debt repayments including the extension;
  - b. Excerpt of the court verdict that stipulates the suspension of temporary and fixed debt repayments and the extension;
  - c. The names of the supervisory judge and the manager appointed;
  - d. A summary of the peace content and the endorsement of the peace plan by the court; and
  - e. The conclusion of peace.
- (2) Further provisions on the model and content of the general list of cases on the suspension of debt repayments are to be stipulated by the Supreme Court.
- (3) The clerk of court must make available a general list of cases on the suspension of debt repayments as meant in paragraph (1) so that everybody can see it free of charge.

#### Article 233

- (1) If requested by the manager, the supervisory judge can hear testimonies a witness or order the examination by an expert to explain the condition related to the suspension of debt repayments, and the witness is summoned according to the provisions in the Civil Code.
- (2) If the witness fails to show up or refuses to take an oath or give testimonies, provisions in the Civil Code must be applied.
- (3) The wife or husband, former wife or husband and relatives by blood according to the upward and downward straight line of the debtor can exercise their rights to be exempted from the obligation to give testimonies.

#### Article 234

- (1) The manager appointed as meant in Article 225 paragraph (2) must be independent and has no conflict of interest with the debtor or creditor.
- (2) The managers as meant in paragraph (1) who is found guilty of not being independent is subject to criminal and/or civil sanctions in accordance with the existing law.
- (3) The managers as meant in paragraph (1) must meet the following requirements :
  - a. Domiciled in the territory of the Republic of Indonesia, and having special expertise needed to take care of the debtor's wealth; and
  - b. Being registered at the ministry whose tasks and responsibilities cover law and legislation sectors.
- (4) The manager must be responsible for his/her mistake and/or ignorance in performing managerial tasks that inflict losses to the debtor's wealth.
- (5) The court must set the amount of recompenses for the manager based on the guidelines stipulated by the minister whose tasks and responsibilities cover law and legislation sectors after the last suspension of debt repayments and the recompenses must be first paid using the debtor's wealth.

#### Article 235

- (1) No legal attempt can be made to challenge a verdict pertaining to the suspension of debt repayments.
- (2) The verdict as meant in paragraph (1) must be announced in the same way as that referred in Article 226.

#### Article 236

- (1) If more than one managers are appointed, to take legal and binding measures, the managers must secure approval from  $\frac{1}{2}$  (a half) of the managers.
- (2) If the number of favoring votes is the same as that of opposing votes, the measures as meant in paragraph (1) must secure approval from the supervisory judge.
- (3) The court can any time approve a proposal for the replacement of manager after summoning and hearing the manager, and appoint other manager and/or appoint additional manager based on :

#### Article 237

- (1) The court can include a clause considered necessary in the interests of the creditors in the verdict approving the suspension of temporary debt repayments.
- (2) The supervisory judge can also do thing as meant in paragraph (1) any time during the suspension of permanent debt repayments :
  - a. at the initiative of the supervisory judge;
  - b. at the request of the manager; or
  - c. at the request of one creditor or more.

#### Article 238

- (1) if the suspension of debt repayment is approved, the supervisory judge can appoint one expert or more to conduct an audit and make a report on the condition of the debtor's wealth during a certain period of time and the extension to be stipulated by the supervisory judge.
- (2) The expert report as meant in paragraph (1) must contain views including complete reasons on the condition of the debtor's wealth, the documents already submitted by the debtor, and the readiness or capability of the debtor to meet his/her obligations to creditors, and must indicate the measures that must be taken to meet the creditor's demand.
- (3) The expert report as meant in paragraph (2) must be made available by the expert at the office of the clerk of court to enable anybody to see it free of charge and the request to make available the report at the office of the clerk of court is exempted from any fees.
- (4) The provision in Article 236 paragraph (3) mutatis mutandis applies to experts.

#### Article 239

- (1) Every 3 (three) months since the verdict pertaining to the suspension of debt repayments was read out, the manager must report the condition of the debtor's wealth, and the report must also be made available at the office of the clerk of court as meant in Article 238 paragraph (3).
- (2) The period of time to report the condition of the debtor's wealth as meant in paragraph (1) can be extended by the supervisory judge.

#### Article 240

- (1) During the suspension of debt repayments, the debtor, without approval from the manager, cannot take managerial actions or possess his/her wealth, either partially or wholly.
- (2) If the debtor violates the provision in paragraph (1), the manager is entitled to do anything needed to ensure that the debtor's wealth is not harmed due to the debtor's actions.
- (3) If the debtor, without approval from the manager, meets the obligation that arises after the start of the suspension of debt repayments, the obligation can only be charged to the debtor's wealth provided the matter benefits the debtor's wealth.
- (4) With approval from the manager, the debtor can make loans from a third party merely to increase the value of the debtor's wealth.
- (5) If the loans as meant in paragraph (4) need collateral, the debtor can charge his/her wealth with mortgage, fiducial guarantee, guarantee right, or collateral right over other items, provided the loans have received approval from the supervisory judge.
- (6) The charging of the debtor's wealth with mortgage, fiducial guarantee, guarantee right, or collateral right over other items as meant in paragraph (5) can only apply to part of the debtor's wealth that has not been used as collateral for loans.

#### Article 241

If the debtor is married in united wealth, the debtor's wealth covers all united assets and liabilities.

#### Article 242

- (1) During the suspension of debt repayments, the debtor cannot be forced to repay the debts as meant in Article 245 and all the execution measures that have been started to get the debts settled must be postponed.
- (2) Except if the court has set an earlier date at the request of the manager, all the seals attached to the debtor's wealth must be nullified and if the debtor is taken hostage, the debtor must be set free shortly after the verdict pertaining to the suspension of permanent debt repayments is read out or after the verdict pertaining to the endorsement of peace plan receives fixed legal force, and at the

request of the manager or the supervisory judge, if needed, the court must order the removal of seals already attached to the items belonging to the debtor's wealth.

- (3) The provisions in paragraph (1) and paragraph (2) also apply to the ongoing execution and seizure of items that are not burdened even if the execution and seizure concern the creditor's claims guaranteed by mortgage, fiducial guarantee, guarantee right or collateral right over other items, or priority right related to certain wealth based on the law.

#### Article 243

- (1) The suspension of debt repayments does not stop the legal proceeding of a case that has been started by the court or obstruct the filing of a new case.
- (2) If the case as meant in paragraph (1) concerns a suit against the payment of a claim acknowledge by the debtor while the plaintiff has no interest in obtaining a verdict to exercise a right to a third party, after the acknowledgement is recorded, the judge can defer the verdict until the suspension of debt repayments expires.
- (3) The debtor can neither become a plaintiff nor defendant in a case concerning the right or obligation related to his/her wealth without approval from the manager.

#### Article 244

By constantly observing provisions in Article 246, the suspension of debt repayments does not apply to :

- a. Claims guaranteed by mortgage, fiducial guarantee, guarantee right, or collateral right to other items;
- b. Claims to the costs of maintenance, supervision or education that have become due and the supervisory judge must set the amount of claims that have appeared but have not been paid before the suspension of debt repayments and do not constitute claims with priority right; and
- c. Claims that have priority to certain items owned by the debtor or to all the debtor's wealth that is covered by paragraph (1) letter b.

#### Article 245

The repayment of all debts other than those referred to in Article 244 that have appeared before the suspension of debt repayments is given during the suspension of debt repayments, cannot be made, except the debt repayments are made to all creditors, according to the proportion of their respective claims, without reducing the validity of the provisions in Article 185 paragraph (3).

#### Article 246

The provisions in Article 56, Article 57, and Article 58 shall *mutatis mutandis* apply to the execution of the creditor's rights as meant in Article 55 paragraph (1) and the creditor's priority rights, on the stipulation that the deferment is valid during the suspension of debt repayments.

#### Article 247

- (1) The person who owes or has claim to the debtor, can use the claim or the legal action resulting in the said debt and claim has occurred before the suspension of debt repayments.
- (2) The claim to the debtor as meant in paragraph (1) is calculated according to the provisions in Article 274 and Article 275.

#### Article 248

- (1) The person who takes over a debt to the debtor from a third party or a claim to the debtor from a third party before the suspension of debt repayments, cannot use the claim to pay the debt if the person has no good intention in taking over the debt or claim.

- (2) If the claim or debt is taken over after the suspension of debt repayment has begun, the claim cannot be used to repay the debt.
- (3) The provisions in Article 53 and Article 54 apply to the repayment of a debt using a claim referred to herein.

#### Article 249

- (1) If at the time when the verdict pertaining to the suspension of debt repayments is read out there is a reciprocal agreement that has not been or has partially been fulfilled, the party signing the agreement with the debtor can ask the manager to give certainty about the continuation of the agreement within a period of time agreed upon by the manager and the party.
- (2) If no agreement on the period of time as meant in paragraph (1) is reached, the supervisory judge must set the period of time.
- (3) If within the period of time as meant in paragraph (1) and paragraph (2) the manager does not give an answer or is not prepared to continue the agreement, the agreement will end and the party as meant in paragraph (1) can demand compensation as a concurrent creditor.
- (4) If the manager states his/her preparedness, the manager must give guarantee over his/her preparedness to continue the agreement.
- (5) The provisions in paragraph (1), paragraph (2), paragraph (3) and paragraph (4) do not apply to the agreement requiring the debtor to take the action agreed upon himself/herself.

#### Article 250

- (1) If in the agreement as meant in Article 249 both sides have agreed to the transfer of items that are commonly traded for a certain period of time and before the transfer of the items materializes the verdict pertaining to the suspension of temporary debt repayment has been read out, the agreement is declared as being abolished, and if the opposite party suffers due to the abolishment he/she can nominate himself/herself as a concurrent creditor to get compensation.
- (2) If the wealth suffers a loss due to the abolishment as meant in paragraph (1), the opposite part must pay the loss.

#### Article 251

- (1) If the debtor has hired an item, the debtor, with the approval of the manager, can discontinue the lease agreement, on condition that the debtor must notify the discontinuation of the lease agreement before the conclusion of the agreement in accordance with the local tradition.
- (2) When discontinuing the lease agreement as meant in paragraph (1), the debtor must also pay attention to the period of time in accordance with the agreement or the custom. On condition that a period of 90 (ninety) days is enough.
- (3) If the rent has been paid in advance, the lease agreement cannot be discontinued earlier than the conclusion of the lease period in which the rent has been paid in advance.
- (4) Since the day when the verdict pertaining to the suspension of temporary debt repayments is read out. The rent due constitutes the debt of the creditor's wealth.

#### Article 252

- (1) Soon after the verdict pertaining to the suspension of temporary debt repayments is read out, the debtor is entitled to lay off his/her employees by observing the provisions in Article 240 and paying attention to the period of time in accordance with the existing agreement or law, in the sense that the layoff can be made by means of notification made at least 45 (forty five) days earlier.
- (2) Since the suspension of temporary debt repayments takes effect, the salaries and other expenses arising from the layoff become the debt of the debtor's wealth.



#### Article 253

- (1) The as yet unannounced payments that are made to the debtor, after the verdict pertaining to the suspension of temporary debt repayments has been read out, to meet the binding agreement that arises before the verdict pertaining to the suspension of temporary debt repayments, shall exempt the party that has made payments to the debtor's wealth, except if the party can prove that he/she has an idea of the verdict pertaining to the suspension of temporary debt repayments.
- (2) The payments as meant in paragraph (1) that are made after the announcement of the payments only exempt the party that makes the payments if the party can prove that despite the announcement made in accordance with the law he/she might not know the said announcement in his/her domicile, without reducing the manager's rights to prove otherwise.

#### Article 254

The suspension of debt repayments does not apply to the profit of fellow debtor and guarantor.

#### Article 255

- (1) The suspension of debt repayments can be ended at the request of the supervisory judge, or one creditor or more, or at the initiative of the court if:
  - a. The debtor, during the suspension of debt repayments, has acted with bad intention in managing his/her wealth;
  - b. The debtor has harmed or tried to harm the creditors;
  - c. The debtor violates provision in Article 240 paragraph (1);
  - d. The debtor ignores to take actions required by the court during or after the suspension of debt repayments, or ignores to take actions required by the manager for the sake of the debtor's wealth;
  - e. During the suspension of debt repayments, the debtor's wealth does not make it possible to continue the suspension of debt repayments; or
  - f. The financial condition of the debtor cannot be expected to meet his/her obligations to the creditors on schedule.
- (2) In case of the condition as meant in paragraph (1) letter a and letter e, the manager must apply for an end to the suspension of debt repayments.
- (3) The applicant, the debtor and the manager must be heard on the date already set by the court after being summoned as they should be.
- (4) The application for an end to the suspension of debt repayments as meant in paragraph (1) must be examined in no more than 10 (ten) days after the application is filed and the court verdict must be read out in no more than 10 (ten) days after the examination is completed.
- (5) The court verdict must contain the reason for making the court verdict.
- (6) If the suspension of debt repayments is ended based on this article, the debtor must be declared bankrupt in the same court verdict.

#### Article 256

The provisions in Article 11, Article 12, Article 13 and Article 14 shall *mutatis mutandis* apply to the verdict pertaining to a declaration of bankruptcy as a result of the court verdict pertaining to the conclusion of the suspension of debt repayments.

#### Article 257

The verdict pertaining to a declaration of bankruptcy as a result of the verdict pertaining to the conclusion of the suspension of debt repayments must be made public in accordance with the provision in Article 15 paragraph (4).

#### Article 258

- (1) If the court considers that a court session to decide the application for an end to the suspension of debt repayments cannot be completed before the date when the creditors are heard in accordance with the provisions in Article 225 paragraph (3), the court must order an effort to notify in writing the creditors that they cannot be heard on that date.
- (2) If required, the court must soon set the other date to convene a session and if this so happens the manager must summon the creditors.

#### Article 259

- (1) The debtor can any time apply to the court for the lifting of a verdict pertaining to the suspension of debt repayments, on person that the debtor's wealth makes it possible for the debt repayments on condition that the manager and creditors must be summoned and heard as they should be before the verdict is read out.
- (2) The confiscator must serve the summons as meant in paragraph (1) on the manager and creditors by means of delivery letters in no more than 7 (seven) days before the court session begins.

#### Article 260

During the suspension of debt repayments no bankruptcy suit can be filed against the debtor.

#### Article 261

If based on one of provisions in this Chapter, a verdict pertaining to a declaration of bankruptcy is read out, the provisions in Article 15 must be applied.

#### Article 262

- (1) If the debtor is declared bankruptcy based on the provision in this Chapter, the following provisions must be applied :
  - a. The period of time as meant in Article 42 and Article 44 must be calculated starting from the date when the verdict pertaining to the suspension of temporary debt repayments is read out;
  - b. The legal action taken by the debtor after receiving approval from the manager must be regarded as legal action taken by the curator, and the debt of the debtor's wealth arising during the suspension of debt repayments must constitute the debt of the bankrupt wealth;
  - c. The debtor's obligations arising during the suspension of debt repayments without approval from the manager cannot be charge to the debtor's wealth, except if the obligations have a profitable impact on the debtor's wealth.
- (2) If the application for the suspension of debt repayments is filed 2 (two) months after the conclusion of the previous suspension of debt repayments, the provisions in paragraph (1) also apply to the next suspension of debt repayments.

#### Article 263

The recompenses for experts appointed based on the provisions in Article 238 shall be set by the supervisory judge and be paid first using the debtor's wealth.

#### Article 264

The provisions in the international laws as meant in Article 212, Article 213 and Article 214 shall mutatis mutandis apply to the suspension of debt repayments.

#### Part Two

#### P e a c e

#### Article 265

The debtor is entitled to offer peace to the creditors at the time of or after applying for the suspension of debt repayments.

#### Article 266

- (1) If the peace plan is not made available at the office of the clerk of court as meant in Article 225, the peace plan must be submitted before the session date as meant in Article 226 or on the ensuing date by constantly observing the provisions in Article 228 paragraph (4).
- (2) Copies of the peace must soon be sent to the supervisory judge, manager and expert, if any.

#### Article 267

If before the verdict pertaining to the endorsement of peace plan receives fixed legal force, there is court verdict stating that the suspension of debt repayments is over, the peace plan must be declared as being annulled.

#### Article 268

- (1) If the peace plan has been submitted to the clerk of court, the supervisory judge must set :
  - a. The last day when claims must be sent to the manager;
  - b. The date and time when the peace plan is to be discussed and decided in a creditor meeting led by the supervisory judge.
- (2) The grace period as meant in paragraph (1) letter a and letter b must be a minimum of 14 (fourteen) days.

#### Article 269

- (1) The manager must announce the specified time as meant in Article 268 paragraph (1) at the same time when the peace plan is received, except if the matter has been announced in accordance with the provisions in Article 226.
- (2) The manager must also notify the matters as meant in paragraph (1) to all creditors known by the manager by means of delivery letter or courier, and the notification must mention the provisions in Article 270 paragraph (2).
- (3) The creditors can come in person or are represented by a proxy based on a power of attorney.
- (4) The manager can require the debtor to give the creditors a certain amount of down payment set by the manager to cover the announcement and notification expenses.

#### Article 270

- (1) Claims must be filed to the manager by handing over a letter of claims or other written evidence stating the characteristics and amount of claims, complete with supporting evidence and a copy of the supporting evidence.
- (2) The creditors can ask for receipts from the manager in connection with the claims filed to the manager as meant in paragraph (1).

#### Article 271

All the calculation that have been sent by the manager must be verified against the records and reports from the debtors.

#### Article 272

The manager must make a list of claims containing the name and domicile of each creditor, the amount of claims of each creditor, the explanation of claims, and whether the claims are recognized or denied by the manager.

#### Article 273

- (1) Claims that carry interest must be included in the list as meant in Article 272, complete with the calculation of interest until the date when the verdict pertaining to the suspension of debt repayments is read out.
- (2) The provision in Article 135, Article 139, Article 140, Article 141, and Article 142 paragraph (1) and paragraph (2) shall mutatis mutandis apply to the suspension of debt repayments.

#### Article 274

- (1) Claims that bear terms of deferment can be included in the list as meant in Article 272 for the value prevailing at the time when the suspension of debt repayments begins.
- (2) If the manager and creditors fail to reach an agreement on the value of claims, all the claims of the creditors must be accepted conditionally.

#### Article 275

- (1) Claims, which at the time of being collected are still unclear or which give rights to receive periodical payments must be included in the list for the value prevailing at the time when the verdict pertaining to the suspension of temporary debt repayments is read out.
- (2) All the claims that can be collected within 1 (one) year since the verdict pertaining to the suspension of temporary debt repayments is read out must be treated as claims that can be collected on the date.
- (3) All the claims that can be collected 1 (one) year after the verdict pertaining to the suspension of debt repayments is read out must be included in the list for the value prevailing 1 (one) year after the verdict pertaining to the suspension of debt repayments is read out.
- (4) In calculating the value of claims as meant in paragraph (2) and paragraph (3), the following matters must be observed :
  - a. Time and method of paying installments;
  - b. Possible profit; and
  - c. The amount of interest if agreed upon.

#### Article 276

- (1) The manager must make available a copy of the list as meant in Article 272 at the office of the clerk of court, to enable anybody to see it free of charge within 7 (seven) days before the holding of the meeting as meant in Article 268.
- (2) The manager must be exempted from any fee to put a copy of the list as meant in paragraph (1) at the office of the clerk of court.

#### Article 277

- (1) By constantly observing the provision on the period of time for the suspension of debt repayments as meant in Article 228 paragraph (4), at the request of the manager or ex officio, the supervisory judge can suspend discussion on and voting for the peace plan.
- (2) In case of suspended discussion on and voting for the peace plan as meant in paragraph (1), the provisions in Article 269 shall be applied.

#### Article 278

- (1) In a meeting on the peace plan, both the manager and expert, if they have been appointed, must provide a report in writing on the offered peace plan.
- (2) The provisions in Article 150 shall mutatis mutandis apply to the suspension of debt repayments.
- (3) The claims sent to the manager after the grace period as meant in Article 268 paragraph (1) letter a, on condition they are sent in no more than 2 (two) days before the meeting, must be included in

the list of claims at the request made in the meeting, if the manager and creditors who are present have no objection to it.

- (4) The claims sent to the manager after the grace period as meant in paragraph (3) are not included in the list of claims.
- (5) The provisions on the period of time as meant in paragraph (2) and paragraph (3) are not applicable if the creditors are domiciled outside the territory of the Republic of Indonesia, thing that poses an obstacle to report themselves earlier.
- (6) If the objection as meant in paragraph (2) and paragraph (3) is raised or if there is a dispute over whether or not the obstacle as meant in paragraph (5) exists, the supervisory judge shall decide the matter after asking for views from participants of the meeting.

#### Article 279

- (1) The manager in the meeting is entitled to withdraw any acknowledgement or denial that has been made earlier.
- (2) The creditors who are present in the meeting can deny the claim that is recognized by the manager wholly or partially.
- (3) The acknowledgement or denial made in the meeting must be recorded in the list of claims.

#### Article 280

The supervisory judge shall determine the creditors whose claims are denied to enable them to cast their vote and set the maximum number of votes that can be cast by the creditors.

#### Article 281

- (1) A peace plan can be accepted based on :
  - a. Approval from more than  $\frac{1}{2}$  (a half) of the number of concurrent creditors whose rights are recognized or are temporarily recognized and who are present in the creditor meeting as meant in Article 268, including the creditor as meant in Article 280, who altogether represent at least  $\frac{2}{3}$  (two-thirds) of the total claims that are recognized or temporarily recognized and concurrent creditors or their proxies that are present in the meeting; and
  - b. Approval from more than  $\frac{1}{2}$  (a half) of the number of the creditors whose claims are guaranteed by mortgage, fiducial guarantee, guarantee right, or collateral right over other items and who are present at least  $\frac{2}{3}$  (two-thirds) of the total claims of the creditors or heir proxies that are present in the meeting.
- (2) The creditors as meant in paragraph (1) letter b that do not agree to the peace plan deserve to receive compensation as much as the lowest value among the guarantee value or the actual value of loans that are directly guaranteed by collateral right over items.
- (3) The provisions in Article 152 and Article 153 also apply to voting for the peace plan as meant in paragraph (1).

#### Article 282

- (1) The official report of a meeting led by the supervisory judge contain the content of the peace plan, the name of creditors that are present and are entitled to vote, notes on the votes cast by the creditors, the result of voting, and notes on all other happenings in the meeting.
- (2) The list of creditors made by the manager that has been supplemented or demanded in the meeting must be signed by the supervisory judge and the substitute clerk of court and be attached to the relevant official report of the meeting.
- (3) A copy of the official report of the meeting as meant in paragraph (1) must be made available at the office of the clerk of court in no more than 3 (three) days after the decision of the meeting is reached.

- (4) The copy of the official report of the meeting is visible to anybody free of charge for 8 (eight) days after being made available at the office of the clerk of court.

#### Article 283

- (1) The debtor and creditors that favor the peace plan within 8 (eight) days after the date of voting in the meeting can ask the court to improve the official report of the meeting if based on the existing documents it turns out that the peace plan has been mistakenly considered by the judge as being refused.
- (2) If the court makes a correction of the official report of the meeting, in the same court verdict the court must set the date to endorse the peace plan as early as in 8 (eight) days and in 14 (fourteen) days at the latest after the court verdict that improves the official report of the meeting is read out.
- (3) The manager must notify in writing the creditors of the court verdict as meant in paragraph (2) and the court verdict leads to the verdict pertaining to a declaration of bankruptcy based on Article 289 being annulled for the sake of law.

#### Article 284

- (1) If the peace plan is accepted, the supervisory judge must convey a written report to the court on the specified date to endorse the peace plan, and on the specified date the manager and creditors can lodge the reason for which they wish for the endorsement or refusal of the peace plan.
- (2) The provision in Article 158 paragraph (2) shall mutatis mutandis apply to the implementation of provision in paragraph (1).
- (3) The court can move back and set the session date to endorse the peace plan in no more than 14 (fourteen) days after the session date as meant in paragraph (1).

#### Article 285

- (1) The court must issue a verdict on the endorsement of the peace plan and the reason for the issuance of the verdict in the session as meant in Article 284 paragraph (3).
- (2) The court must refuse to endorse the peace plan if :
  - a. The amount of the debtor's wealth, including items for which the right to hold the item is implemented, is far bigger than that agreed upon in the peace plan;
  - b. The implementation of peace plan is not well guaranteed;
  - c. The peace is reached because of swindle, or conspiracy with one creditor or more, or because of the use of other unfair attempts without considering whether or not the debtor or other party has cooperated to achieve the matter; and/or
  - d. The recompenses for and expenses incurred by the expert and the manager have not been paid or are not protected by guarantees.
- (3) If the court refuses the peace plan, in the same verdict the court must declare the debtor bankrupt and the verdict must be announced in the State Gazette of the Republic of Indonesia and at least in 2 (two) dailies as meant in Article 226 in no more than 5 (five) days after the verdict is received by the supervisory judge from the curator.
- (4) The provisions in Article 11, Article 12, and Article 13 shall mutatis mutandis apply to the endorsement of the peace plan but not to the refusal of the peace plan.

#### Article 286

The endorsed peace plan binds all creditors, except those refusing the peace plan as meant in Article 281 paragraph (2).

#### Article 287

The verdict on the endorsement of peace plan that has received fixed legal force in connection with the official report as meant in Article 282, for all the creditors that are not denied by the debtor, constitutes the basis for the execution of right to the debtor and all the people who have bound themselves as the guarantors of the peace.

#### Article 288

The suspension of debt repayments ends at the time when the verdict on the endorsement of the peace plan receives fixed legal force and the manager must announce the conclusion of the suspension of debt repayments in the State Gazette of the Republic of Indonesia and at least in 2 (two) dailies as meant in Article 227.

#### Article 289

If the peace plan is refused, the supervisory judge must soon notify the court of the refusal by handing over a copy of the peace plan and the office report of the meeting as meant in Article 282 to the court, and if this so happens the court must declare the debtor bankrupt after the court receives the notification on the refusal from the supervisory judge, by observing the provisions in Article 283 paragraph (1).

#### Article 290

If the court has declared the debtor bankrupt, the verdict pertaining to a declaration of bankruptcy must be subject to provision on bankruptcy as meant in Chapter II, except Article 11, Article 12, Article 13 and Article 14.

#### Article 291

- (1) The provision in Article 170 and Article 171 shall *mutatis mutandis* apply to the cancellation of the peace plan.
- (2) In the court verdict canceling the peace plan, the debtor must also be declared bankrupt.

#### Article 292

In a verdict pertaining to a declaration of bankruptcy decided based on the provisions in Article 285, Article 286, or Article 291, no peace can be offered.

#### Article 293

- (1) Based on provisions in this Chapter no legal attempt can be made to challenge the court verdict, except this Law stipulates otherwise.
- (2) An appeal against the court verdict can be filed by the Attorney General in the interest of the law.

#### Article 294

The application filed based on the provisions in Article 237, Article 255, Article 256, Article 259, Article 283, Article 285, Article 290 and Article 291 must be signed by the lawyer who acts based on a power of attorney, except if the application is filed by the manager.

### CHAPTER IV APPLICATION FOR JUDICIAL REVIEW

#### Article 295

- (1) An application for a judicial review of the court verdict that has received fixed legal force can be filed to the Supreme Court, except this Law stipulates otherwise.
- (2) The application for a judicial review of the court verdict can be filed if :

- a. After the case has been decided there is new decisive evidence that has already been in existence when the case was examined but has not been decided; or
- b. In the relevant court verdict, there is real mistake.

#### Article 296

- (1) The applicant for a judicial review of the court verdict based on the reason as meant in Article 295 paragraph (2) letter a shall be filed in no more than 180 (one hundred and eighty) days after the date of the court verdict of which the judicial review is filed receives fixed legal force.
- (2) The applicant for a judicial review of the court verdict based on the reason as meant in Article 295 paragraph (2) letter b shall be filed in no more than 30 (thirty) days after the date of the court verdict of which the judicial review is filed receives fixed legal force.
- (3) The application for a judicial review of the court verdict shall be filed to the clerk of court.
- (4) The clerk of court shall register the application for a judicial review of the court verdict on the date of filing the application and give the applicant a receipt signed by the clerk of court using the same date as the registration date of the application.
- (5) The clerk of court shall convey the application for a judicial review of the court verdict to the clerk of the Supreme Court in no more than 2 (two) days after the registration date of the application.

#### Article 297

- (1) The applicant for judicial review of the court verdict must send of court supporting evidence serving as the basis for the filing of the application and the party to which the application is filed a copy of the application, along with copies of the relevant supporting evidence on the date when the application as meant in Article 296 paragraph (1) is registered.
- (2) Without ignoring the provision in paragraph (1), the clerk of court shall send a copy of the application for a judicial review of the court verdict, along with a copy of the supporting evidence to the party to which the application is filed in no more than 2 (two) days after the date when the application is registered.
- (3) The party to which the application is filed can give a reply to the application for a judicial review of the court verdict in no more than 10 (ten) days after the date when the application is registered.
- (4) The clerk of court must send the reply as meant in paragraph (3) to the clerk of the Supreme Court in no more than 12 (twelve) days after the date when the application is registered.

#### Article 298

- (1) The Supreme Court shall soon examine and decide the application for a judicial review of the court verdict in no more than 30 (thirty) days after the date when the clerk of the Supreme Court receives the application.
- (2) The verdict related to the application for a judicial review of the court verdict must be read out in a court session open to the public.
- (3) In no more than 32 (thirty-two) days after the date when the clerk of the Supreme Court receives the application, the Supreme Court must send the concerned parties copies of the verdict related to judicial review of the court verdict including legal considerations underlying the verdict.

### CHAPTER V OTHER PROVISIONS

#### Article 299

Except this Law stipulates otherwise, the law applied shall be the Civil Code.



#### Article 300

- (1) The court as meant in this Law, in addition to examining and deciding the application for a declaration of bankruptcy and the suspension of debt repayments, also the authority to examine and decide other cases in the commercial field stipulated by law.
- (2) The court as meant in paragraph (1) is set up in stages by a Presidential Decree by observing the need for and preparedness of resources needed.

#### Article 301

- (1) The court shall examine and decide cases at the first level through a panel judge.
- (2) Where other matters in the commercial field as meant in Article 300 paragraph (1) are concerned, the Supreme Court can determine the type and value of cases which at the first level are examined and decided by a single judge.
- (3) In performing his/her duties, the court judge is assisted by a clerk of court or a substitute clerk of court and confiscator.

#### Article 302

- (1) The court judge is appointed based on a decision of the Supreme Court Chairman.
- (2) The court judge as meant in paragraph (1) must fulfill the following requirements :
  - a. Having experience as a judge for a general court;
  - b. Dedicating his/her life for the state and having a knowledge of the problems that become the scope of the court's authority;
  - c. Having integrity, being honest and fair and never committing disgraceful deeds; and
  - d. Having accomplished a special training program as a judge working for the court.
- (3) By constantly observing the requirements as meant in paragraph (2) letter b, letter c, and letter d, under a Presidential Decree, at the proposal of the Supreme Court Chairman, an expert can be appointed as an ad hoc judge, either at the first level court, appellate court or at the phase of judicial review.

#### Article 303

The court has the constant authority to examine and settle applications for a declaration of bankruptcy from the parties related to the agreement containing an arbitration clause, provided the debts serving as the basis or the filing of the application for a declaration of bankruptcy have met the provisions in Article 2 paragraph (1) of this Law.

### CHAPTER VI TRANSITIONAL PROVISIONS

#### Article 304

- The case, which at the time when this law is put into force :
- a. Have been examined and decided but have not been executed, or have been examined but have not been decided, must be settled in accordance with the law on bankruptcy before this Law is put into force;
  - b. Have been filed but have not been examined, must be settled in accordance with this Law.

#### Article 305

All the laws and regulations that constitute the implementation of the Law on Bankruptcy (Statute Book of 1905:217 junction Statute Book of 1906:348) that has been amended by Government Regulation in lieu of Law No. 1/1998 on Amendment to Law on Bankruptcy that has been passed into a

law under Law No. 4/1998, at the time when this Law is promulgated, remain valid so long as they do not contradict and/or have not been replaced by new regulations based on this Law.

## CHAPTER VII CONCLUSION

### Article 306

The commercial court at the Central Jakarta district court that was set up based on the provisions in Article 281 paragraph (1) of Government Regulation in lieu of Law No. 1/1998 on Amendment to the Law on Bankruptcy as has been stipulated into Law No. 4/1998, shall be declared as still having the authority to examine and decide the cases that become the scope of the commercial court's tasks.

### Article 307

At the time when this Law is put into force, Law on Bankruptcy (Statute Book of 1915:217 junction Statute Book of 1906:348) and Law No. 4/1998 on the Endorsement of Government Regulation in lieu of Law No. 1/1998 on Amendment to Law on Bankruptcy into Law (Statute Book of 1998 No. 135, Supplement to Statute Book No. 3778), shall be revoked and declared null and void.

### Article 308

This Law shall begin to take effect on the date of promulgation.

For public cognizance, this Law shall be promulgated by placing it in the Statute Book of the Republic of Indonesia.

Endorsed in Jakarta

On October 18, 2004

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Sgd.

MEGAWATI SOEKARNOPUTRI

Promulgated in Jakarta

On October 18, 2004

THE STATE SECRETARY,

Sgd

BAMBANG KESOWO

STATUTE BOOK OF THE REPUBLIC OF INDONESIA OF 2004 NO. 131

