

Insolvency Law

Part I

Chapter I

Title and Commencement

1. Title and commencement

Chapter II

Definitions

2. Definition
3. Notice and declaration
4. Taking action
5. Duties and powers of Registrar

Part II

Objective

6. Objectives

Part III

Insolvency Practitioners

Chapter I

Preliminary

7. Application of this Part

Chapter II

Registration as Insolvency Practitioners

8. Morals to be followed

Chapter III

Restrictions on practicing as Insolvency Practitioner by Ineligible Persons

9. Practicing without prescribed eligibility
10. Persons ineligible to practise as Insolvency Practitioner
11. Keeping the Register of Insolvency Practitioner
12. Grant of Registration Certificate
13. Yearly renewal of Registration Certificates
14. Untruthful representation

Chapter IV

Supervisory Council of Insolvency Practitioners

15. Formation
16. Duties and Powers of Council
17. Formations of Committees and Assigning Duties
18. Foreign Insolvency Practitioners

Chapter V

Insolvency Practitioners' Association

19. Recognition to Association
20. Objectives of Association
21. Membership

Chapter VI

Detriment and Investigation

22. Detriments caused by the Insolvency Practitioners
23. Causing the Association to investigate the complaints
24. Taking action by the Disciplinary Committee according to the report of Association
25. The Court may make orders in respect of the Insolvency Practitioners
26. Applying the decision of the Disciplinary Committee to the Council by sufferer

Part IV

Receiving

Chapter I

General Provisions

27. Meaning of Receiver
28. Receiver may be appointed

Chapter II

Appointment of Receiver outside the Court, Vacancy, Powers and Responsibilities

29. When to appoint Receiver
30. Powers of Receiver
31. Liability of Receiver
32. Duty to care in selling property
33. Vacancy in office of Receiver

Chapter III

Functions of Receiver and Power of the Court

34. Duty to report by the Receiver

35. Declaration relating to the matters of Company
36. Report of Receiver
37. Duties of Receiver in respect of financial records and bank accounts
38. Power of the Court to fix remuneration
39. The Court may direct

Part V

Company Rescue and Rehabilitation

Chapter I

Nature of Rehabilitation Process

40. Rehabilitation Process
41. Objectives of Rehabilitation Arrangement
42. Supervision of the Court

Chapter II

Appointment of Rehabilitation Manager

43. Appointment of Rehabilitation Manager
44. Prohibiting the Appointment of Rehabilitation Manager in Extraordinary Conditions
45. Submission of Rehabilitation Application to the Court
46. Powers of the Court
47. Condition effecting the appointment
48. Choosing Rehabilitation Manager in Extraordinary Matters
49. Sending the notice of the Appointment of Rehabilitation Manager
50. Invalidity of Appointment

Chapter III

Rescue Level

Works, Duties and Powers of Rehabilitation Manager

51. Works of Rehabilitation Manager
52. Duties of Rehabilitation Manager
53. Carrying out as the Agent of a Company by the Rehabilitation Manager
54. Powers of Rehabilitation Manager

Protections to the Company within Rescue Level

55. Consequences for Company in Rescue Level
56. Protection to Company
57. Protection to sureties
58. Grant of the Court
59. Property subject to floating charge

60. Property subject to fixed charge
61. Protection to the creditors who have security interest in other matters

General Provisions

62. Liability of Rehabilitation Manager
63. Notification that company is in rehabilitation
64. Distribution by Rehabilitation Manager
65. Declaration relating to the Matters of Company
66. Formation of Creditors' Committee
67. Inspection of books and papers by Creditors
68. Application to the Court
69. Meeting of Creditors
70. Appointment of Rehabilitation Manager by changing
71. When to submit the Proposal of Rehabilitation Arrangement
72. Drawing the Rehabilitation Arrangement and facts to be included

Chapter IV

Rehabilitation Arrangement

73. When to validate the Rehabilitation Arrangement
74. Notice of Appointment
75. Commencement of Rehabilitation Arrangement
76. Supplementary effects of Rehabilitation Arrangement
77. Effect of Rehabilitation Arrangement on interested persons
78. The Court may restrict the rights of Creditors who have security interest or owner or lessor
79. Sector of Arrangement Supervisor
80. Power the Court may direct
81. Notification of Rehabilitation
82. Substitution of Arrangement Supervisor

Chapter V

Changing or Terminating the Rehabilitation Arrangement

83. Specifying the majority of votes in voting
84. Termination of Rehabilitation Arrangement in reaching the objective
85. Changing the Rehabilitation Arrangement
86. Termination of Rehabilitation Arrangement by Creditors in not reaching the objective
87. Termination by the Court for not reaching the objective or misusing of process

Chapter VI

Transition to Liquidation

88. Condition of Transition to Liquidation

Chapter VII

General Provisions

- 89. Untruthful representation
- 90. Declaration relating to the Matters of Company
- 91. The Right of Creditors to inspect the books and papers

Part VI

Rescue and Rehabilitation of Micro, Small and Medium Enterprise

Chapter I

Nature of Rehabilitation Process

- 92. Application of this Part
- 93. Rehabilitation Processes
- 94. Aims and Objectives of this Part
- 95. Supervision of the Court
- 96. Rehabilitation Adviser

Chapter II

Process of Part VI

- 97. Commencement of the Process of Part VI
- 98. Restriction of the Commencement of Rehabilitation Process
- 99. Notification to the Creditors who have security interest
- 100. The Notice of completion of the Appointment of Rehabilitation Adviser has to be sent
- 101. Commencement of Appointment

Chapter III

Rehabilitation Process

Works, Duties and Powers of Rehabilitation Adviser

- 102. Works of Rehabilitation Adviser
- 103. Duties of Rehabilitation Adviser
- 104. Powers of Rehabilitation Adviser

Protection in Business Rescue Level

- 105. Consequences of Business Rescue Level
- 106. Protecting the Business
- 107. Protecting the Sureties
- 108. Grant of the Court
- 109. Property subject to floating charge
- 110. Property subject to fixed charge

111. Protecting the Creditors who have security interest in other matters

General Provisions

112. Liability for Debts
113. Notification that business is in rehabilitation
114. Declaration relating to the Business Matters of Part VI
115. Declaration relating to Business Matters may be relied
116. Inspection of books and papers by Creditors
117. Application to the Court
118. Mediation
119. Meeting of Creditors
120. Appointment of Rehabilitation Adviser by changing
121. Drawing Rehabilitation Arrangement and facts to be included
122. Publication of Proposed Rehabilitation Arrangement
123. Calling for Creditors' Meeting to confirm the Rehabilitation Arrangement
124. Failing to approve the Business Rehabilitation Arrangement of Part VI

Chapter IV

Rehabilitation Arrangement

125. Commencement of Business Rehabilitation Arrangement of Part VI
126. Notice of Appointment
127. Supplementary effects of Rehabilitation Arrangement
128. Effect of Rehabilitation Arrangement on the interested persons
129. The Court may restrict the rights of the Creditors who have security interest or Owners or Lessors
130. Sector of Arrangement Supervisor
131. Power the Court may direct
132. Notification of Rehabilitation Arrangement
133. Substitution of Arrangement Supervisor

Chapter V

Changing or Termination of Rehabilitation Arrangement

134. Specifying the majority of votes in voting
135. Terminating the Rehabilitation Arrangement in reaching the objective
136. Changing the Rehabilitation Arrangement
137. Terminating the Rehabilitation Arrangement by the Creditors in not reaching the objective
138. Terminating the Rehabilitation Arrangement by the Court in not reaching the objective or misusing the process

Chapter VI

Transition to Liquidation

139. Condition of the Transition to Liquidation

Chapter VII

Liquidation of the Registered Businesses of Part VI

140. Liquidation of the Businesses of Part VI applies to Part VII
141. Application and Fees for Application
142. Evidence and Priority Arrangement of Claim
143. Liquidator is not liable to incur the expenses which are unable to be paid
144. Liquidating immediately the Businesses of Part VI registered as Company

Part VII

Liquidation

Chapter I

Winding Up of Companies registered under the Companies Law

145. Application of this Part
146. Priority of Rehabilitation Processes
147. Conditions of Voluntary Winding Up of Company
148. Dividing the Voluntary Winding Up by members and creditors
149. Changing from Voluntary Winding Up to Winding Up by the Court
150. When Voluntary Winding Up start

Chapter II

Members' Voluntary Winding Up

151. Declaration of Solvency in members' voluntary winding up
152. Appointment of Liquidator
153. Effect of Insolvency by the Company
154. Transition to creditors' Voluntary Winding Up

Chapter III

Creditors' Voluntary Winding Up

155. Application of this Chapter
156. Meeting of Creditors
157. Burden to submit the declaration relating to the matters of Company by the Directors to the Creditors
158. Appointment of Liquidator

Chapter IV

Liquidation by the Court

159. Jurisdiction of the Courts

160. Application to the Superior Court

Fundamental Causes and Effects of Application for Winding Up

161. Circumstances in which company may be wound up by the Court

162. Presuming as Insolvency

163. Submitting the application for liquidation

164. Power of the Court on hearing the application

165. Power of the Court to stay or restrain proceedings

Appointment of Liquidator

166. Appointment of Provisional Liquidator and powers thereof

167. Appointment of Liquidator

168. Process of appointment of Official Receiver as Liquidator

169. Calling for Meeting to substitute the appointed Liquidator

170. Appointment by the Court continuously with Rehabilitation Process

Inspection Procedures

171. Power to stay Liquidation

Chapter V

Supplementary Consequences

172. Supplementary Consequences of Liquidation

173. Custody of company's properties

174. Transferring the Company's properties to the Liquidator in accordance with the law

175. Effect of Approval and Attaching Warrant

176. Duties of the Officer approving and carrying out under the Order of the Court and other procedures

Chapter VI

Liquidators

177. Duties of Liquidator

178. Inspection by Liquidator

Powers and Duties of Liquidator

179. General Powers of Liquidator

180. Duty of Liquidator to report

181. Vacancy in office of Liquidator

182. Removal of Liquidator

183. Filling the Vacancy of Liquidator

184. Not appointing or nominating the Liquidator by the Company

185. Abandonment of Liquidator

- 186. Applying the Decision of Liquidator to the Court
- 187. Deceiving for bribery affecting the Appointment

Chapter VII

Provisions relating to Company Liquidation

General Provisions

- 188. Notification that Company is in Liquidation
- 189. Declaration relating to the Matters of Company
- 190. Formation of Creditors' Committee
- 191. Inspection of books and papers by Creditors
- 192. Application to the Court
- 193. Additional Powers of the Court

Priority Arrangements to be Distributed

- 194. Equality of Debt Priority Level
- 195. Distribution of Company's Properties
- 196. Payment of Priority Claims
- 197. Interest on Debts
- 198. Specific Specification of Debt Level
- 199. Applying for Receipts from Security Contracts

Administration of Debts and Claims

- 200. Debts or Claims allowed to present evidence
- 201. Presenting Evidence relating to Debts or Claims
- 202. Mutual Credit and Set-Off
- 203. Power to remove the creditors who are not able to proof in time
- 204. Presenting evidence for debt by the creditor who has security interest
- 205. Priority arrangement of related staffs among pledges
- 206. Right of declaration for not taking responsibility for burdened property
- 207. Refusal of not taking responsibility on leased property
- 208. Ordinary powers of the court relating to the refusal of not taking responsibility
- 209. Powers of the court relating to the refusal of not taking responsibility on leased property
- 210. Annuling the contracts by the court

Final Liquidation and Dissolution

- 211. Final meeting before dissolution
- 212. Final dissolution and rehabilitation
- 213. Immediate Dissolution

Chapter VIII

Misusing while or before Liquidation

Punishment against Companies and Company Officers, Inspection and Proceeding, Offences for Imitation and Fraud

- 214. Cheating with the intention of liquidation
- 215. Misconduct in liquidation process
- 216. Untruthful representation to creditors
- 217. Taking the directors and officers action, causing the irresponsible directors and liquidators to take responsibility
- 218. Fraudulent trading
- 219. Wrongful trading
- 220. Restriction of reusing company name

Inspection of Corruption and Proceedings

- 221. Prosecution of irresponsible officers and members of company
- 222. Duties arising under S.221

Chapter IX

Contributories

- 223. Liability of present and past members as contributories
- 224. Powers of the Court
- 225. Using the books and papers of the company as evidence

Chapter X

Liquidation of unregistered companies

- 226. Meaning of unregistered company
- 227. Liquidation of unregistered company
- 228. Liquidation of a company incorporated outside the Union of Myanmar
- 229. Actions to be suspended under the liquidation order

Part VIII

Individual Insolvency

Chapter I

Making Voluntary Arrangements

Moratorium for Insolvent Debtor

- 230. Application
- 231. Moratorium order of the Court
- 232. Conditions for making moratorium order
- 233. Effects of application for moratorium order

Proposal of Debtor

- 234. Report of the proposed insolvency practitioner
- 235. Proposal of debtor and report of the proposed insolvency practitioner
- 236. Summoning of creditors' meeting
- 237. Decisions of creditors' meeting
- 238. Report of decisions to the Court
- 239. Effects of approval
- 240. Objection on the decision approved voluntary arrangement
- 241. Untruthful representation
- 242. Proceedings against defective debtor
- 243. Ending of arrangements before the prescribed period
- 244. Implementation and supervision of approved voluntary arrangement

Chapter II

Proceedings relating to Individual Insolvency

- 245. Person who has the right to submit the application for bankruptcy order
- 246. Requirement in respect of debtor
- 247. Other specifications relating to the application for bankruptcy order

Application of Creditors for Bankruptcy Order

- 248. Grounds of creditors' application
- 249. Meaning of insolvency
- 250. Notice of application for bankruptcy order
- 251. Debt which has security interest
- 252. Immediate application
- 253. Proceedings carried out relating to the application of creditor
- 254. If the debtor is micro, small and medium enterprise
- 255. Appointment of trustee or official receiver according to the application of creditor
- 256. Appointment of official receiver

Application by Debtor

- 257. Application of debtor
- 258. Grounds the debtor may apply
- 259. Taking action on the application
- 260. Appointment of trustee or official receiver

Debtors who are not Micro, Small and Medium Enterprises

- 261. Applications regarding the debtors who are not micro, small and medium enterprise
- 262. Appointment of mediator
- 263. Moratorium order
- 264. Notice of appointment of trustee

Commencement and Termination of Bankruptcy

- 265. Commencement and effect of bankruptcy
- 266. Duration of bankruptcy
- 267. Effects of the exemption from bankruptcy
- 268. Power of the Court that may annul the bankruptcy order

Chapter III

Protection of Bankrupt's Properties and Inquiry into Bankrupt's Transactions

- 269. Bankrupt's properties
- 270. Restrictions on the administration of bankrupt's properties
- 271. Restrictions on proceedings and remedies
- 272. Power to appoint provisional receiver
- 273. Declaration in respect of transactions
- 274. Duties and powers of trustee to make inspection
- 275. Examining the insolvent debtor in public
- 276. Duties to be carried out by the insolvent debtor

Chapter IV

Trustees in Bankruptcy

Term of Trustee

- 277. Appointment
- 278. Removal of trustee, vacancy
- 279. Termination from duty
- 280. Vacancy of trustee

Supervising the Trustee

- 281. Committee of creditors
- 282. Supervising the trustee by the Court
- 283. Liabilities of trustee

Chapter V

Powers and Duties of Trustee

Preliminary

- 284. Duties of trustee

Confiscation, Detention and Sale of Bankrupt's Properties

- 285. Transfer of bankrupt's properties to trustee
- 286. Properties received after being a bankrupt
- 287. Transfer of valuable properties to trustee
- 288. Specification of period to be noticed under S.286 or S.287
- 289. Order to pay debts from the incomes of bankrupt

- 290. Agreement to pay from income
- 291. Supervising by trustee
- 292. Duty to transfer to trustee
- 293. Charge on the dwelling-house of bankrupt
- 294. Application for possession or charge and dwelling-house is at undervalue
- 295. Powers of trustee

Refusal of Burdened Property

- 296. Declaration of not taking responsibility for burdened property
- 297. Informing the decision of trustee
- 298. Refusal of not taking responsibility on leased property
- 299. Refusal of not taking responsibility regarding the premises of dwelling-house
- 300. Powers of the Court regarding the refusal of not taking responsibility
- 301. Powers of the Court regarding the refusal of not taking responsibility on leased property

Claim for Distribution of Bankrupt's Property and Distribution

- 302. Proof of debts
- 303. Mutual debts and set-off
- 304. Share distribution
- 305. Claims of unsatisfied creditors
- 306. Distribution of property in category
- 307. Preferential debts
- 308. Specifying the preferential arrangement of debts
- 309. Debt to pay to bankrupt's spouse
- 310. Final distribution
- 311. Final meeting of creditors
- 312. Exception relating to bankrupt's premises

Supplementary Provisions

- 313. Bankrupt's duties relating to trustee
- 314. Moratorium of distribution of property in the matter of later bankruptcy
- 315. Balancing among bankrupt's properties in earlier bankruptcy and later bankruptcy

Chapter VI

Negotiating with Creditors or Making Working Plan

- 316. Proposal for negotiation or making working plan
- 317. Reporting the proposal of bankrupt by trustee
- 318. Presenting in respect of negotiation or working plan
- 319. Holding the meeting of creditors
- 320. Report of decisions to the Court
- 321. Effects of approval

Chapter VII

Effects of Bankrupt on Opportunities and Transactions

322. Opportunities relating to trusted land

Rights to Live

323. Right to live of the wife or husband of bankrupt

324. Right to live of bankrupt

Rebalancing the Prior Transactions

325. Invalidating the ordinary transfer of debts according to account

326. Contracts to which bankrupt is party

327. Approval procedures

328. Right to claim for rent

329. Trainees

330. Unenforceability of liens on books and papers

331. Arbitration agreement to which bankrupt is party

Chapter VIII

Bankruptcy Offences

332. Application of this part

333. Defence of innocent intention

Violations of Bankrupt before or after the Commencement of Bankruptcy

334. Non-disclosure

335. Concealment of property

336. Concealment of books and papers and falsification

337. False statements

338. Fraudulent disposal of property

339. Absconding

340. Fraudulent dealing with property obtained on credit

341. Obtaining credit, engaging in business

Chapter IX

Power of the Court in Bankruptcy

342. Power to arrest

343. Seizure of bankrupt's properties

344. Inquiry into bankrupt's properties and dealings

345. Power of the Court to approve under S.344

346. Appointment of provisional receiver

347. Power to appoint special manager

- 348. Redirection of bankrupt's letters
- 349. Limitation
- 350. Unrighteousness
- 351. Exemption from stamp duty

Part IX

Application of Current Position and Prior Transactions

Chapter I

Management by Rehabilitation Manager, Liquidator etc.

- 352. Appointment of two or more insolvency practitioners
- 353. Duty relating to company's properties
- 354. Duty to cooperate with current position
- 355. Inquiry into company's transactions
- 356. Power of the Court to approve under S.355

Chapter II

Remuneration for Insolvency Practitioners appointed under this Law

- 357. Application of this chapter
- 358. Fixing remuneration

Chapter III

Application of Prior Transactions

(Rehabilitation, Liquidation and Insolvency)

- 359. Date of commencement
- 360. Transactions at undervalue
- 361. Cancellation of prior activity
- 362. Orders under S.360 or S.361
- 363. Unfair preferences
- 364. Avoidance of company's certain floating charges

Chapter IV

Other Matters

- 365. Lien of books and papers
- 366. Mode of attending meeting
- 367. Use of websites

Part X

Provisions relating to Cross-Border Insolvency

Chapter I

Preliminary

368. Objective

Chapter II

General Provisions

369. Definition

370. Application of this part

371. International duties of the State

372. The Court having jurisdiction and authority

373. Power to carry out in a foreign country as an insolvency practitioner registered under this Law

374. Refusal under public policy

375. Additional assistances under other laws

376. Interpretation

Chapter III

Access of Foreign Representatives and Creditors to the Court

377. Right of direct access

378. Limited jurisdiction

379. Application by a foreign representative to commence a proceeding under this Law

380. Participation of a foreign representative in a proceeding under this Law

381. Access of foreign creditors to a proceeding under this Law

382. Notification to foreign creditors of a proceeding under this Law

Chapter IV

Recognition of a Foreign Proceeding and Relief

383. Application for recognition of a foreign proceeding

384. Presumptions concerning recognition

385. Decision to recognize a foreign proceeding

386. Subsequent information

387. Relief that may be granted upon application for recognition of a foreign proceeding

388. Effects of recognition of a foreign main proceeding

389. Relief granted upon recognition of a foreign proceeding

390. Protection of creditors and other interested persons

391. Actions to avoid acts detrimental to creditors

392. Intervention by a foreign representative in proceeding in the State

Chapter V

Cooperation with Foreign Courts and Foreign Representatives

393. Cooperation and direct communication between a Court of the State and foreign courts or foreign representatives
394. Cooperation and direct communication between a registered insolvency practitioner and foreign courts or foreign representatives
395. Forms of cooperation

Chapter VI

Concurrent Proceedings

396. Commencement of a proceeding under this Law after recognition of a foreign main proceeding
397. Coordination of a proceeding under this Law and a foreign proceeding
398. Coordination of more than one foreign proceeding
399. Presumption of insolvency based on recognition of a foreign main proceeding
400. Form of payment in concurrent proceedings

Part XI

General Provisions

Chapter I

Jurisdictions

401. Jurisdictions of the Courts
402. Non cognizable Offences
403. Appeals and jurisdiction to appeal

Chapter II

Composition of Offences

404. Power of Court to grant relief in certain cases
405. Limitation for proceeding
406. Notice for fine

Chapter III

Declarations, Orders and Injunctions

407. Application of this chapter
408. Declaration of contraventions in respect of duties
409. Order to pay compensation to Registrar
410. Order to pay compensation to sufferer
411. Power to grant injunction
412. No limitation on Court's powers

Chapter IV

Violations and Defences

413. Provisions relating to violations

Defence and Relief

414. Defence by company's director or officer

415. Relief from liability in declaration of contravention

Chapter V

Miscellaneous

416. Rules, notifications and directives

417. Power to delegate judicial power and establish Special Courts

418. Application of this Law

419. Causing the current proceedings for liquidation to continue

420. Causing the instruments and documents to remain in full force

421. Applications in process

422. Things done under previous corresponding provisions continue to have effect

423. Preservation of accrued rights

424. Causing the provisions or expressions to remain in full force

425. Repealing of primary laws

STS

Sūrin Translation Service