

**Act on the Establishment of and Procedure for Bankruptcy Court B. E. 2542 (1999)**

**Translation**

BHUMIBOL ADULYADEJ, REX.

Given on the 5<sup>th</sup> day of April, B. E. 2542;

Being the 54<sup>th</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is appropriate to establish Bankruptcy Court as well as the procedure for bankruptcy cases,

Be it therefore enacted by His Majesty the King, by and with the advice and consent of the House of Parliament, as follows:

**Section 1**

This Act shall be called "Act on the Establishment of and Procedure for Bankruptcy Court B. E. 2542 (1999)".

**Section 2**

This Act shall come into force from the date following its publication in the Government Gazette.

**Section 3**

In this Act:

"Bankruptcy Court" means Central Bankruptcy Court or Regional Bankruptcy Court.

"Bankruptcy Case" means a case that is not a criminal case under the bankruptcy law and shall include a civil case related to such case.

**Section 4**

The Minister of Justice shall be in charge of this Act and shall be empowered to issue regulations under this Act.

**Chapter 1**  
**Bankruptcy Court**

**Section 5**

Central Bankruptcy Court shall be established. The date on which it shall be inaugurated shall be proclaimed by Royal Decree.

Central Bankruptcy Court shall have jurisdiction throughout Bangkok. However, any bankruptcy case arising outside the jurisdiction of Central Bankruptcy Court may be filed with Central Bankruptcy Court. It shall be the discretion of Central Bankruptcy Court to determine whether to reject such case.

**Section 6**

The establishment of Regional Bankruptcy Court shall be made by an Act which shall also specify its jurisdiction and location.

## **Section 7**

Bankruptcy Court shall have jurisdiction over a bankruptcy case.

## **Section 8**

Once Bankruptcy Court is inaugurated, no other Courts of First Instance shall accept a case that falls under the jurisdiction of Bankruptcy Courts for adjudication.

## **Section 9**

Where there is a dispute as to jurisdiction, whether the dispute arises in Bankruptcy Court or in other Courts of Justice, the Court shall stay the proceedings and submit the matter to the Chief Justice of the Supreme Court for a ruling. Such ruling shall be final.

Such matter shall not be submitted when any Court of First Instance has rendered a judgment or order.

## **Section 10**

Parties in a case which is pending in Regional Bankruptcy Court may agree to file a petition with such Court to transfer the case to Central Bankruptcy Court for adjudication, provided that such Court shall not grant the request without prior consent of Central Bankruptcy Court.

## **Section 11**

Bankruptcy Court shall be the Court of First Instance under the Law Governing the Organization of Courts of Justice. The provisions of the Law Governing the Organization of Courts of Justice shall apply to Bankruptcy Court *mutatis mutandis*.

## **Chapter 2**

### **Judges of Bankruptcy Court**

## **Section 12**

In Central Bankruptcy Court and each Regional Bankruptcy Court, there shall be one Chief Justice and one Deputy Chief Justice. If the Minister of Justice deems it necessary in the interest of the government service, he may fix more than one Deputy Chief Justice in each Court.

## **Section 13**

Judges of Bankruptcy Court shall be appointed by the King from the judicial officials under the Law on Judicial Service who possess competent knowledge of the matters relating to the bankruptcy law.

## **Chapter 3**

### **Procedure of Bankruptcy Case**

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**Part 1**

#### **Procedure in the Court of First Instance**

## **Section 14**

Unless otherwise provided by this Act, the proceedings in Bankruptcy Court shall be in accordance with the bankruptcy law and the rules issued under Section 19. Where there are no provisions or rules on the issue, the provisions of the Civil Procedural Code shall apply *mutatis mutandis*.

## **Section 15**

Subject to the provision of Section 90/11 of the Bankruptcy Act B.E. 2483, Bankruptcy Court shall proceed with the hearing without adjournment until the hearing is over, save in the case of unavoidable necessities. After the hearing is over, the Court shall promptly render a judgment or order.

In case of failing to appear in Court in any hearing, regardless of whether or not a permission is given by the Court, such party shall be deemed to be aware of the proceedings of the Court in such hearing.

## **Section 16**

Where a person apprehends that the evidence on which he may have to rely in the future will be lost or become difficult to produce, or where a party to a case apprehends that the evidence on which he intends to rely will be lost before he can adduce it in Court or become difficult to adduce at a later stage, such person or party may apply to Bankruptcy Court by petition or motion for an order directing such evidence to be taken at once.

Upon receipt of such application, the Court shall summon the applicant and the opposing party or third person concerned, and after having heard them, shall decide on the application as it thinks fit. If the application is granted, the evidence shall be examined as prescribed by law. The memorandum and other documents relating thereto shall be kept by the Court.

## **Section 17**

In case of an emergency, when an application is filed under Section 16, the applicant may simultaneously file a motion to the effect that Bankruptcy Court may issue an order or a warrant without delay. Where necessary, the applicant may also request the Court to order the official receiver to seize or attach the documents or materials that will be adduced as evidence upon any conditions as the Court may think fit.

The provisions of Sections 261 to 263 and Sections 267 to 269 of the Civil Procedural Code shall apply *mutatis mutandis* to the cases referred to in the first paragraph.

## **Section 18**

Where Bankruptcy Court deems it appropriate, the Court shall commission other Courts or appoint the court official to take any part of evidence on its behalf. Evidence shall be taken in the Court or outside at any place.

## **Section 19**

For the purpose to ensure convenience, expediency and fairness of the proceedings, the Chief Justice of Central Bankruptcy Court shall be empowered, subject to the approval of the Chief Justice of the Supreme Court, to issue rules of the Court on proceedings and hearing of evidence in Bankruptcy Court.

Such rules shall come into force after their publication in the Government Gazette.

## **Section 20**

Bankruptcy Court may call any knowledgeable persons or experts to appear and give opinions for its consideration. The Court shall notify all parties of such calling and shall not debar the parties from requesting the Court to call their knowledgeable persons or experts to give opinions on their behalf in order to give contradictory or additional opinion to the opinions of such knowledgeable persons or experts.

## **Section 21**

The knowledgeable persons or experts whom Bankruptcy Court has called to appear and give opinions shall be entitled to allowance, transportation and accommodation expenses in accordance with the regulations prescribed by the Ministry of Justice upon approval of the Ministry of Finance.

## **Section 22**

The parties or persons involved in the case may appoint any person who is domiciled in the jurisdiction of the Bankruptcy Court to receive pleadings or documents on their behalf, by submitting a request to the competent Court. After the approval of the Court, such pleadings or documents may be served on the appointed person.

If the parties or persons involved in the case have no domicile or place of business in the jurisdiction of Bankruptcy Court before which the case is pending, the Court may, for convenience in the service of pleadings or documents, order the parties or persons involved in the case to appoint a person who is domiciled in its jurisdiction to receive pleadings or documents on their behalf within the prescribed period.

If the parties or persons involved in the case fails to comply with the court order issued under the second paragraph, the service of pleadings and documents may be conducted by posting the same at the Court before which the case is pending or by notifying the parties concerned to collect the same from the court in lieu of service by other means. Pleadings or documents served by such means shall be effective after fifteen days have elapsed from the posting date.

Service of pleadings or documents to the appointed person may be conducted in the same manner as service to the parties or conducted by such other means provided in the Civil Procedural Code. Service of pleadings or documents to the person appointed as aforesaid shall be effective after seven days have elapsed after the posting date or fifteen days have elapsed after the date of service by other means.

## **Section 23**

Where the Court deems it appropriate, it may order that the pleadings or any documents shall be served to the parties or any persons by registered mail, regardless of whether or not the parties or such persons are domiciled in or out of the Kingdom. In this event, it shall be deemed that the pleadings or documents served by a post official shall come into effect as if they were served by a court official.

## **Part 2 Appeal**

### **Section 24**

Subject to the bankruptcy law, an appeal against any judgment or order of Bankruptcy Court with respect to a reorganization case including a civil case related to such case shall be submitted to the Supreme Court within one month from the date of its pronouncement.

An appeal against any judgment or order of Bankruptcy Court with respect to other bankruptcy cases shall be subject to the bankruptcy law.

### **Section 25**

The Chief Justice of the Supreme Court shall set up a Bankruptcy Section in the Supreme Court for the adjudication of bankruptcy cases that may be appealed to the Supreme Court. In this regard, a judgment or an order shall be given promptly.

### **Section 26**

In the case where Bankruptcy Court has accepted an appeal for submission to the Supreme Court pursuant to the first paragraph of Section 24, and the Supreme Court holds that such appeal is prohibited by law, the Supreme Court shall dismiss the appeal. On the other hand, if the Supreme Court deems it appropriate, for reason of fairness, to rectify the same, the Supreme Court may accept and consider the appeal that is prohibited by law.

### **Section 27**

Where the Chief Justice of the Supreme Court deems it appropriate, any question of law in respect of any bankruptcy case may be considered by plenary session of the Supreme Court Justices.

## **Section 28**

The provisions of Part 1 with respect to procedure in the Court of First Instance and the Civil Procedural Code governing the proceedings of cases in the Court of Appeal and the Supreme Court shall apply *mutatis mutandis* to the proceedings of case which is appealed pursuant to the first paragraph of Section 24 in the Supreme Court.

## **Transitory Provisions**

### **Section 29**

With respect to a bankruptcy case which is not final on the inauguration date of Central Bankruptcy Court to be established in accordance with Section 5, the provisions of the bankruptcy law that are in effect during that period of time shall apply, unless the case is transferred to Central Bankruptcy Court for adjudication.

With respect to a bankruptcy case pending in the Court of First Instance, all parties may agree to file a petition to transfer the case to Central Bankruptcy Court for adjudication within 180 days from the inauguration date of Central Bankruptcy Court. In this event, Central Bankruptcy Court shall accept the case for adjudication.

### **Section 30**

During the period when Regional Bankruptcy Court has not been opened for operation in any locality, Central Bankruptcy Court shall have jurisdiction in the locality. The submission of plaint or petition shall be submitted to the Provincial Court in whose jurisdiction the debtor is domiciled or carries on business, whether personally or by representation, at the time of submission of plaint or petition, or within one-year prior. The Provincial Court shall then notify Central Bankruptcy Court of the matter. After Central Bankruptcy Court has accepted the case for adjudication, it may conduct the inquiry, the hearing and give judgment at the relevant Provincial Court or at Central Bankruptcy Court, as it may think fit.

Where necessary, Central Bankruptcy Court may request the Provincial Court where the plaint or petition has been filed or any other Provincial Court to conduct any proceedings which does not amount to giving a ruling on the issue in dispute. In this event, the Provincial Court shall apply the procedure of bankruptcy case under Chapter 3 to the proceedings in such case.

Countersigned by

Mr. Chuan Leekpai

Prime Minister

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