



Insolvency Amendment Act 2001

Public Act 2001 No 22
Date of assent 2 May 2001
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Insolvency Amendment Act 2001.
- (2) In this Act, the Insolvency Act 1967 is called "the principal Act".

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 New sections 45 to 45B substituted

The principal Act is amended by repealing section 45, and substituting the following sections:

“45 Assignee may require bankrupt to contribute towards payment of debts

- “(1) A bankrupt must pay any amount, or make periodic payments, to the Assignee as required by the Assignee during the bankruptcy.
- “(2) The Assignee may impose conditions in respect of those payments.
- “(3) Before the Assignee may require the bankrupt to make those payments, the Assignee must—
- “(a) have regard to all the circumstances of the bankruptcy and the bankrupt’s conduct, earning power, responsibilities, and prospects; and
 - “(b) make reasonable allowance for the maintenance of the bankrupt, the bankrupt’s spouse, and the bankrupt’s family.
- “(4) The Court may, on the application of the bankrupt or any creditor,—
- “(a) vary, suspend, or cancel the bankrupt’s obligation to make the payments under this section:
 - “(b) remit any arrears owing by the bankrupt.

“45A Court may order that money due to bankrupt be assigned to Assignee

- “(1) The Court may, on the application of the Assignee, make an order assigning or charging to or in favour of the Assignee any money due to the bankrupt or to become due or payable to the bankrupt.
- “(2) That assignment or charge operates as a discharge to the person who pays the Assignee.

“45B Application of section 104 to payments by bankrupt or assignments by Court

The Assignee must apply the following payments in accordance with section 104:

- “(a) any amount paid by the bankrupt under section 45:
- “(b) any amount paid to the Assignee under an order made under section 45A.”

4 New section 62 substituted

The principal Act is amended by repealing section 62, and substituting the following section:

“62 Prohibition of bankrupt entering business

“(1) An undischarged bankrupt must not, without the consent of the Assignee or the Court either directly or indirectly,—

“(a) enter into, carry on, or take part in the management or control of, any business:

“(b) be employed by a relative of the bankrupt or by any company, trust, trustee, or incorporated society, that is managed or controlled by a relative of the bankrupt.

“(2) Nothing in this section restricts section 151 of the Companies Act 1993.”

5 Court may order debtor to be arrested

Section 63(1) of the principal Act is amended by inserting, after the word “residence”, the words “either temporarily or permanently”.

6 Court may order debtor’s property to be seized

Section 64(1)(b) of the principal Act is amended by inserting, after the word “residence”, the words “either temporarily or permanently”.

7 New section 68A inserted

The principal Act is amended by inserting, after section 68, the following section:

“68A Assignee may obtain documents

The Assignee may, by notice in writing, require the bankrupt, the bankrupt’s spouse, or any other person to deliver to the Assignee any book, paper, or document relating to the dealings or property of the bankrupt in that person’s possession or under that person’s control as the Assignee requires.”

8 Crimes by bankrupt

Section 126(1)(k) of the principal Act is amended by inserting, after the words “New Zealand” wherever they appear, the words “either temporarily or permanently”.

9 Summary offences

- (1) Section 128 of the principal Act is amended—
- (a) by omitting from subsection (1) the expression “3 months”, and substituting the expression “12 months”;
 - (b) by inserting in subsection (1)(f), after the words “New Zealand” wherever they appear, the words “either temporarily or permanently”.
- (2) Section 128 of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsection:
- “(2) Despite anything in section 14 of the Summary Proceedings Act 1957, any information for any of the offences in paragraphs (a) to (g) of subsection (1) may be laid against a bankrupt at any time within 2 years after the time when the matter of the information arose.”

10 Offences by undischarged bankrupts in relation to management of companies

Section 128A(1) of the principal Act is amended—

- (a) by omitting the expression “6 months”, and substituting the expression “12 months”;
- (b) by omitting the expression “\$1,000”, and substituting the expression “\$5,000”.

Legislative history

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| 4 April 2001 | Divided from Business Law Reform Bill (Bill 319-3F) |
| 1 May 2001 | Third reading |
| 2 May 2001 | Royal assent |

This Act is administered in the Ministry of Economic Development.
