



Newsletter 01/2021

A summary of the Voluntary Arrangement process provided for under the Insolvency Act 1967 and Insolvency (Voluntary Arrangement) Rules 2017

Step 1: Debtor appoints nominee¹

- General rule: Only person registered with Director General of Insolvency (“DGI”) can act as nominee²
- Who can be registered with DGI to act as nominee?
 - i. Registered chartered accountant under Accountants Act 1967;³
 - ii. Advocate & solicitor;⁴ or
 - iii. Other person Minister prescribes⁵
- Nominee paid based on scale of fees prescribed by Minister⁶
- Debtor can replace nominee at any time before voluntary arrangement concluded⁷

¹ Section 2C(2)(a) Insolvency Act 1967

² Section 2F(1) Insolvency Act 1967. Exception in Section 2F(2) Insolvency Act 1967 – Officer of body corporate established under Central Bank of Malaysia Act 2009

³ Section 2G(1)(a)(i) Insolvency Act 1967

⁴ Section 2G(1)(a)(ii) Insolvency Act 1967

⁵ Section 2G(1)(a)(iii) Insolvency Act 1967

⁶ Section 2Q Insolvency Act 1967

⁷ Section 2M(1) Insolvency Act 1967

Step 2: Debtor applies to Court for interim voluntary arrangement order⁸

- Via summons in chamber supported by affidavit⁹
- No previous voluntary arrangement application made within 12 months¹⁰
- Nominee consent to being appointed¹¹

Step 3: Debtor submits copy of Court application to DGI¹² and nominee

- Within seven days from receipt of sealed application¹³

Step 4: Court grants interim voluntary arrangement order¹⁴

- mandatory as relevant provision uses “shall”
- valid for 90 days¹⁵

⁸ Section 2C(2)(b) Insolvency Act 1967

⁹ Rule 7(1) Insolvency (Voluntary Arrangement) Rules 2017

¹⁰ Section 2D(2)(a) Insolvency Act 1967

¹¹ Section 2D(2)(b) Insolvency Act 1967

¹² Section 2C(2)(b) Insolvency Act 1967

¹³ Rule 7(4) Insolvency (Voluntary Arrangement) Rules 2017

¹⁴ Section 2D(1) Insolvency Act 1967



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Step 5: Debtor notifies nominee of commencement date of interim order

- Within 7 days of interim order¹⁶

Step 6: Debtor notifies all creditors of commencement of interim order

- Within 7 days of notifying nominee¹⁷

Step 7: Debtor submits statement of affairs to nominee¹⁸

- Within 14 days from date of interim order¹⁹

Step 8: Creditors files proof of debt

- Within 21 days from receipt Debtor's notification of commencement of interim order²⁰

Step 9: Nominee prepares debtor's proposal

- Within 21 days after receiving statement of affairs²¹

Step 10: Nominee summons creditors meeting

- Must be done within validity of interim voluntary arrangement order²²
- Within 14 days after preparing debtor's proposal²³
- Send notice to all creditors²⁴

Step 11: Creditors meeting convened

- Proposed voluntary arrangement put to vote. Special resolution required.²⁵

¹⁵ Section 2D(3) Insolvency Act 1967

¹⁶ Section 2D(4) Insolvency Act 1967

¹⁷ Section 2D(5) Insolvency Act 1967

¹⁸ Section 2I(2)(a) Insolvency Act 1967

¹⁹ Rule 9 Insolvency (Voluntary Arrangement) Rules 2017

²⁰ Rule 10(1) Insolvency (Voluntary Arrangement) Rules 2017

²¹ Rule 11 Insolvency (Voluntary Arrangement) Rules 2017

²² Section 2I(1) Insolvency Act 1967

²³ Rule 12(1) (Voluntary Arrangement) Rules 2017

²⁴ Rule 12(2) (Voluntary Arrangement) Rules 2017

²⁵ Section 2I(3) Insolvency Act 1967



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Step 12: Nominee prepares report of creditors meeting²⁶

report is sealed,³² to review decision of the meeting³³

Step 13: Nominee reports decision of meeting to Court²⁷

- By filing the report in Court within 7 days of creditors meeting²⁸
- If proposal rejected, Court may set aside interim voluntary arrangement order²⁹

Step 15: [Where voluntary arrangement approved] Nominee supervise implementation of voluntary arrangement³⁴

- Debtor, any creditor can apply to court to review act, omission, or decision of nominee in supervision of implementation of voluntary arrangement³⁵
- Voluntary arrangement cease on death of debtor³⁶

Step 14: Nominee serves sealed copy of report to debtor & creditors³⁰

- Interim voluntary arrangement order cease to have effect within 30 days report sealed by Court³¹
- Debtor, nominee, or person entitled to vote at creditors meeting can apply, within 30 days from date

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²⁶ Rule 18(1) (Voluntary Arrangement) Rules 2017

²⁷ Section 2J(1) Insolvency Act 1967

²⁸ Rule 18(1) (Voluntary Arrangement) Rules 2017

²⁹ Section 2J(2) Insolvency Act 1967

³⁰ Section 2J(1) Insolvency Act 1967

³¹ Section 2K(2) Insolvency Act 1967

³² Section 2L(3) Insolvency Act 1967

³³ Section 2L(1) Insolvency Act 1967

³⁴ Section 2N(1) Insolvency Act 1967

³⁵ Section 2N(2) Insolvency Act 1967

³⁶ Section 2P Insolvency Act 1967



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