

## Table of contents

Preface .....	11
<b>Part One: Introductory issues concerning insolvency of entrepreneurs</b>	
1. Sources of the bankruptcy and restructuring law for entrepreneurs in Poland .....	13
2. Place of the insolvency law in the system of law in Poland .....	16
3. Procedure for liquidating debtor's assets in Poland .....	16
4. Procedure for concluding the arrangement with creditors .....	19
5. Digitalization of proceedings in Poland .....	20
6. Preference for the State Treasury in the proceedings in Poland .....	21
7. International insolvency law in Poland .....	21
<b>Part Two: Bankruptcy Law for entrepreneurs</b>	
Chapter 1. General remarks .....	25
1. Introduction .....	25
2. Bankruptcy capacity of entrepreneurs .....	25
3. Premises for bankruptcy .....	26
4. Representation of creditors in proceedings .....	27
Chapter 2. Effects of the bankruptcy announcement .....	28
1. Date of the bankruptcy announcement .....	28
2. Impact of opening proceedings on the debtor in Poland .....	28
3. Impact of opening proceedings on debtor's obligations in Poland .....	28
4. Impact of opening proceedings on debtor's assets .....	29
5. Impact of opening bankruptcy proceedings on other procedures .....	30
6. Ineffectiveness of some of the bankrupt's activities in Poland .....	30
Chapter 3. Liquidation of a bankruptcy estate .....	31
1. Preliminary remarks .....	31
2. Bankruptcy estate as a subject of liquidation .....	32
3. Bankruptcy proceedings and enforcement proceedings .....	32
4. Bankruptcy proceedings and internal liquidation of assets .....	32

5. Liquidation as realization of bankruptcy assets .....	33
6. Liquidation of a bankruptcy estate as one of the stages of bankruptcy proceedings .....	33
7. Liquidation of a bankruptcy estate and the objectives of bankruptcy proceedings .....	35
8. Procedures for disposing of property in bankruptcy in Poland .....	35
9. The trustee (an official receiver in bankruptcy) .....	36
10. Rules for liquidation of a bankruptcy estate .....	37
11. Civil law contract as the carrier of liquidation of a bankruptcy estate .....	40
12. Prepared liquidation (pre-pack) .....	41
Chapter 4. Distribution of accumulated funds to creditors .....	47
1. Securing receivables in bankruptcy proceedings in Poland .....	47
2. The rules for distribution of accumulated funds to creditors .....	47

### **Part Three: Restructuring Law for entrepreneurs**

Chapter 1. General remarks .....	51
1. Objectives of restructuring proceedings and system of authorities that recognize restructuring cases in Poland .....	51
2. Restructuring capacity of entrepreneurs, institutions and natural persons in Poland .....	51
3. Premises for restructuring proceedings in Poland .....	52
4. Stages of restructuring proceedings in Poland .....	53
5. Date of announcement of the restructuring .....	54
6. Forms of representation of creditors in restructuring proceedings in Poland .....	54
7. Arrangement proposals in Poland .....	54
8. The subject of arrangement proposals .....	55
9. The mode of entering into the arrangement with creditors and its approval .....	55
10. Legal character of the arrangement .....	55
11. Receivables secured by a mortgage, pledge in restructuring proceedings in Poland .....	56
Chapter 2. Grounds for opening restructuring proceedings in Poland .....	58
1. Introductory remarks .....	58
2. General conditions for restructuring proceedings .....	60
2.1. Introduction .....	60
2.2. Insolvency .....	61
2.2.1. Loss of liquidity .....	61
2.2.2. Excessive debt .....	62
2.3. Threat of insolvency .....	63
3. Premises for opening restructuring proceedings of a certain type .....	64

3.1. Introductory remarks .....	64
3.2. Premises for the procedure for approval of an arrangement .....	64
3.3. Premises for opening accelerated arrangement proceedings .....	65
3.4. Premises for opening arrangement proceedings .....	65
3.5. Premises for opening sanation proceedings .....	65
Chapter 3. Effects of opening restructuring proceedings .....	67
1. Introductory remarks .....	67
2. Effects of initiating restructuring proceedings regarding the debtor's person .	69
2.1. General remarks .....	69
2.2. Effects for the debtor of the procedure for approval of an arrangement .....	71
2.3. Effects of opening accelerated arrangement proceedings and arrangement proceedings for the debtor's person .....	71
2.4. Effects of opening sanation proceedings for the debtor .....	71
3. Effects of initiating restructuring proceedings on the debtor's assets .....	72
3.1. Preliminary remarks .....	72
3.2. Effects of proceedings for approval of an arrangement on the debtor's assets .....	75
3.3. Effects of the opening of accelerated arrangement proceedings on the debtor's assets .....	76
3.4. Effects of the opening of arrangement proceedings on the debtor's assets .....	77
3.5. Effects of the opening of sanation proceedings on the debtor's assets .....	78
4. Effects of initiating restructuring proceedings regarding the debtor's obligations and other legal relationships .....	79
4.1. Preliminary remarks .....	79
4.2. Opening of the restructuring procedure and the issue of the debtor's due date .....	79
4.3. Opening of restructuring proceedings and the status of non-monetary liabilities .....	80
4.4. Opening of restructuring proceedings and interest .....	80
4.5. Arrangement approval procedure and debtor's obligations .....	81
4.6. Accelerated arrangement, arrangement proceedings and arrangement obligations .....	81
4.6.1. The so-called arrangement obligations .....	81
4.6.2. Suspension of the performance of arrangement obligations .....	82
5. Invalidity or ineffectiveness of contractual clauses having a negative impact on accelerated arrangement and arrangement proceedings .....	83
6. Limiting the possibility of offsetting mutual claims .....	85
7. Limitation of the contractor's option to terminate certain contracts .....	86

8. The impact of initiating proceedings on a transfer/transfer agreement on the security and ownership clause of the thing sold .....	87
9. Sanation proceedings .....	88
9.1. Reference to provisions on accelerated arrangement proceedings .....	88
9.2. Possibility of withdrawal from the mutual contract in sanation proceedings .....	89
10. Effects of initiating restructuring proceedings regarding inheritances acquired by the debtor .....	92
11. Effects of initiating restructuring proceedings regarding the debtor's marital property relations .....	93
12. Consequences of opening the restructuring procedure to exclude liability for failure to file for bankruptcy .....	95
13. Effects of initiating restructuring proceedings on labor relations .....	95
14. Effects of initiating restructuring proceedings with regard to some of the debtor's activities before the initiation of restructuring proceedings .....	96
14.1. Preliminary issues .....	96
14.2. Ineffectiveness of paid and quasi-paid operations before opening sanation proceedings .....	96
14.3. Ineffectiveness of some safeguards before opening sanation proceedings .....	97
14.4. Ineffectiveness of remuneration for work in connection with remedial proceedings .....	98
14.5. Appropriate application of the provisions on creditor protection in the Civil Code .....	99
14.6. Claim of an administrator in sanation proceedings .....	99
14.7. Effects of ineffectiveness of the debtor's activities in sanation proceedings .....	100
Chapter 4. Arrangement proposals .....	101
1. Introduction .....	101
2. Standard of general competence in relation to arrangement proposals .....	101
3. Limits on the freedom of restructuring liabilities .....	102
4. The principle of equal restructuring conditions .....	104
5. Admissibility of differentiated arrangement proposals for groups of creditors .....	107
6. Postponement (grace period) of the performance of obligations .....	108
7. Grace period in repayment of public law liabilities .....	109
8. Spreading repayment into installments .....	109
9. Decrease in liability .....	110
10. Converting receivables into shares or stocks .....	111
11. Arrangement proposals limiting the debtor on the management of estate .....	114

Chapter 5. Partial arrangement .....	120
1. Initial issues .....	120
2. Restructuring proceedings in which a partial arrangement can be accepted .....	121
3. Partial arrangement and the legal prohibition of cumulative conduct of restructuring proceedings .....	121
4. Identification of creditors covered by a partial arrangement .....	123
5. Admissibility of partial coverage of receivables secured by a partial arrangement without the consent of the creditor .....	124
6. Judicial review of the criteria for selection of creditors to a partial arrangement .....	126
7. Limitations on the content of arrangement proposals .....	126
8. Procedural issues .....	127
Chapter 6. Simplified restructuring proceedings in Poland .....	129
1. COVID-19 .....	129
2. The essence of simplified restructuring .....	131
 <b>Part Four: Consumer bankruptcy and restructuring</b>	
Chapter 1. General remarks .....	137
1. Introduction .....	137
2. Consumer bankruptcy and proceedings for approval of consumer arrangement as separate proceedings .....	139
3. Debt relief in respect of private law and public law obligations of the debtor .....	140
4. The history of regulation of debt relief under consumer bankruptcy in Polish law .....	140
4.1. No regulation of consumer bankruptcy in Polish law before 2008 .....	140
4.2. Act of 5 December 2008 .....	142
4.3. Act of 29 August 2014 .....	146
4.4. Act of 15 May 2015 .....	150
4.5. Act of 30 August 2019 - current legal status .....	151
Chapter 2. Premises for consumer bankruptcy .....	152
1. Competence for filing for consumer bankruptcy. Competence for filing an application for an arrangement at the meeting of creditors .....	152
2. Consumer bankruptcy capacity .....	153
3. Premises for declaring consumer bankruptcy and for granting application for an arrangement at the meeting of creditors .....	154
4. Prerequisite for ordinary insolvency proceedings for natural persons who do not run a commercial activity .....	156
Chapter 3. Debt relief .....	158
1. Modes of debt relief for an insolvent natural person through consumer bankruptcy and consumer arrangement .....	158

2. Legal character of consumer debt relief .....	160
3. Payment morality of the debtor and its legal importance .....	162
Chapter 4. Debt relief thorough creditors' repayment plan .....	166
1. Court ruling in a separate procedure establishing the creditors' repayment plan .....	166
2. Prerequisites for the length of exercising of the repayment plan .....	168
3. Establishing a repayment plan in consumer bankruptcy .....	171
4. Effects of establishing the repayment plan .....	173
5. Proceedings for changing the repayment plan .....	174
6. Repeal of the repayment plan resulting in no debt relief .....	175
7. Order confirming the implementation of the repayment plan and remitting the liabilities .....	176
8. Repealing the repayment plan which the bankrupt is unable to perform for objective reasons and debt relief through cancellation of the debtor's obligations by court order in separate proceedings .....	176
Chapter 5. Debt relief in separate proceedings without establishing a repayment plan .....	177
1. Irrevocable debt relief by decommissioning the debtor's obligations by the court order in separate proceedings without establishing a repayment plan .....	177
2. Debt relief in separate proceedings by conditional remission of the debtor's obligations without establishing a repayment plan .....	178
Chapter 6. Debt relief by way of an arrangement contained in separate bankruptcy proceedings .....	181
Chapter 7. Debt relief in proceedings for entering into an arrangement at the meeting of creditors .....	188
Chapter 8. Debt relief by cancellation of the debtor's obligations by court order in ordinary proceedings .....	192
Chapter 9. Effects of the debt relief .....	196