

FINANCIAL OPERATIONS OF COMPANIES ACT

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All effort has been made to ensure the accuracy of this translation, which is based on the original Slovenian text. Nevertheless, all translations of this kind may be subject to a certain degree of linguistic discord. In case of any uncertainties regarding the English translation the questions may be addressed to:

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The original text of this act is written in the Slovenian language; in case of any doubt or misunderstanding, the Slovenian text shall therefore prevail.

FINANCIAL OPERATIONS OF COMPANIES ACT

1. GENERAL PROVISIONS

Definitions

Article 1

For the purpose of this Act, the following terms and abbreviations shall apply:

1. Financial operations shall mean the provision of funds, management of funds and their sources as well as the allocation of sources of funds in order to create conditions for the carrying out of economic activity.

2. a company shall be a company pursuant to the Companies Act (Zakon o gospodarskih družbah, Ur.l. No 30/93, 39/94, 82/94, 20/98, 84/98 in 6/99 - hereinafter ZGD).

3. a limited company shall be a limited company pursuant to ZGD.

4. a sole trader shall be a sole trader pursuant to ZGD.

5. an institute shall be an institute pursuant to the Institutes Act (Zakon o zavodih, Ur. l. RS, No 12/91, 17/91, 55/92, 13/93, 66/93, 45/94, 8/96).

6. a cooperative shall be a cooperative pursuant to the Cooperatives Act (Zakon o zadrugah, Ur.l. RS, No 13/92, 7/93, 13/93, 22/94, 35/96).

7. an enterprise shall be an economic entity organised as a company, sole trader, institute or cooperative.

8. a cause of bankruptcy shall be a financial state of a debtor which causes the institution of bankruptcy proceedings in respect of this debtor by virtue of the Forced Settlement, Bankruptcy and Liquidation Act (Zakon o prisilni poravnavi, stečajju in likvidaciji, Ur.l. RS, No 67/93 and 39/97 - hereinafter ZPPSL).

9. a financial reorganisation plan shall be a financial reorganisation plan pursuant to ZPPSL.

Extent of the Provisions of this Act

Article 2

(1) The provisions of this Act shall apply to all undertakings, in so far as not provided elsewhere in this Act that they shall only apply to limited companies or companies.

(2) Notwithstanding the section above, the provisions of this Act shall not apply to banks, insurance companies, stockbroking firms and management companies.

(3) Notwithstanding section (1) of this Article, the provisions of Articles 4 to 15 of this Act shall be applied *mutatis mutandis* to public institutes.

Application of the Provisions of this Act

Article 3

(1) The provisions of this Act relating to the board of directors of a company organised as a joint stock company shall be applied *mutatis mutandis* to:

1. the management of a company which is organised as a limited liability company or a partnership;

2. a sole trader;

3. a director or any other management body of an institute;

4. the managing board or president of a cooperative.

(2) The provisions of this Act relating to the supervisory board shall apply to companies which have this board, and shall also apply *mutatis mutandis* to the supervisory board of a cooperative and the board or any other collegiate body of management of institutes.

(3) The provisions of this Act relating to the general meeting of a company shall apply *mutatis mutandis* to the general assembly of a cooperative.

(4) The provisions of this Act relating to partners in a company organised as a limited liability company or a partnership shall apply *mutatis mutandis* to:

1. shareholders of a company organised as a joint stock company;

2. sole traders;

3. founders of an institute;

4. members of a cooperative.

2. FINANCIAL OPERATIONS OF COMPANIES

2.1. Rules of carrying out financial operations with due care

Principles of Financial Operations

Article 4

A company shall conduct its business in accordance with the provisions of this Act and the principles of financial operations issued by the Slovenian Institute of Auditors which was founded by virtue of the Auditing Act (Zakon o revidiranju, Ur.l. RS, No 32/93 and 65/93).

The Principle of Liquidity and Solvency of Operations

Article 5

A company shall conduct its business in such a manner that, at all times, it shall be able to fulfil its liabilities in due time and that it shall be continuously able to fulfil all its liabilities.

Capital Adequacy of a Limited Company

Article 6

A limited company shall ensure that, at all times, it possesses adequate capital with respect to the volume and type of operations undertaken in carrying out its activity and with respect to the risks to which it is exposed in carrying out such operations (hereinafter: "capital adequacy").

Liquidity Management

Article 7

(1) A company shall regularly fulfill its matured liabilities and manage its assets and liabilities in order to be able to fulfil, at any given time, its matured liabilities.

(2) In order to hedge itself against liquidity risks, a company shall formulate and carry out a policy of regular management of liquidity, including:

1. planning expected, identified and possible money outflows and sufficient inflows to cover them;
2. monitoring liquidity on a regular basis;
3. adopting appropriate measures for preventing or eliminating causes of insolvency.

2.2. Duties of the board of directors and supervisory board in the area of financial operations of companies

2.2.1. General

Creating Conditions for Carrying out Financial Operations with Due Care

Article 8

The board of directors of a company shall ensure that the company conducts its business in accordance with this Act and the principles of financial operations.

Monitoring of and Hedging Against Risks

Article 9

(1) The board of directors of a company shall ensure that the company regularly monitors the risks it is exposed to in conducting its business and shall take appropriate measures to hedge against these risks.

(2) The risks pursuant to the previous section shall be mainly:

1. liquidity risks;
2. risk of default by the opposite party;
3. interest, exchange and other market risks;
4. risks incurred by the exposure to a single person or a group of persons who represent a unified risk.

(3) The exposure to a single person according to item 4 of the previous section shall be the sum of all amounts receivable from that person, the value of investments in securities of this person and the value of a company's holdings in this person.

2.2.2. Measures for Ensuring Capital Adequacy of a Limited Company

Duties of the Board of Directors and Supervisory Board on the Occurrence of Capital Inadequacy of a Company

Article 10

(1) If the annual or an interim balance sheet shows that a limited company does not possess adequate capital with respect to the volume and the kind of operations undertaken in carrying out its activity and with respect to the risks which it is exposed to in carrying out such operations (hereinafter: "capital inadequacy"), the board of directors shall:

1. analyse the causes of capital inadequacy and within two months draw up a plan of possible measures necessary for ensuring capital adequacy (hereinafter: "report on ensuring capital adequacy") and submit it to the supervisory board;

2. start carrying out measures outlined in the report on ensuring capital adequacy that are within its authority, e.g. calling up of unpaid shares of the share capital;

3. call the general meeting and propose to it the measures outlined in the report on ensuring capital adequacy that are within its authority, (e.g. the increase of the subscribed capital with a simultaneous reduction of the subscribed capital in order to cover the losses that have not been offset).

(2) It shall be assumed that by, virtue of the section above, capital inadequacy of a limited company has occurred if its loss for the current year and the losses brought forward amount to one half of the limited company's share capital.

(3) The supervisory board shall draw up an opinion on the report of the board of directors on ensuring capital adequacy.

(4) The board of directors shall add the report on ensuring capital adequacy, accompanied by the supervisory board's opinion, to the agenda of the general meeting referred to in paragraph (1)3. of this Article.

Increase of Subscribed Capital to Ensure Capital Adequacy

Article 11

If the report on ensuring capital adequacy as one of the measures provides for the increase of the subscribed capital by issuing new shares or shareholdings instead of repayment of amounts due to individual creditors, the provisions of Article 49.a, Article 49.b, 1-3 and Article 49.c, (1), 1-7 of ZPPSL shall apply *mutatis mutandis* to the change of the subscribed capital.

2.2.3. Measures on the Occurrence of Insolvency or Overindebtedness

Duties of the Board of Directors on the Occurrence of Insolvency

Article 12

(1) If a company is no longer able to fulfil its matured liabilities on time (hereinafter: "insolvency"), the board of directors shall forthwith adopt measures for ensuring liquidity and notify the supervisory board thereof.

(2) If the measures from the previous section do not ensure liquidity within two months after the occurrence of insolvency, the board of directors shall file a petition in bankruptcy or a petition for a forced settlement with the court of competent jurisdiction.

Duties of the Board of Directors in Case of Overindebtedness

Article 13

(1) In the event of a financial situation whereby a company's assets no longer suffice for the fulfilment of all its liabilities (hereinafter: "overindebtedness"), the board of directors shall forthwith, however not later than within two months, present a petition in bankruptcy or forced settlement.

(2) Notwithstanding the provision of the previous paragraph, the board of directors may employ procedures pursuant to Article 12 of this Act if:

1. with due care and diligence it estimates that the company can remove the causes of overindebtedness with appropriate measures of ensuring capital adequacy, and

2. in compliance with regulations, it calls the general meeting not later than two months after the occurrence of the company's overindebtedness, and proposes to the meeting to adopt measures referred to in Article 10 (1)3. of this Act.

(3) If in the case referred to in the preceding paragraph, the general meeting of a company rejects the proposal of the board of directors to adopt measures from Article 10 (1) 3 of this Act, the board of directors shall present a petition in bankruptcy or forced settlement to a court of competent jurisdiction on the next working day following the meeting.

Duty of the Board of Directors to Assess the Possibility of Financial Reorganisation

Article 14

Prior to presenting a petition for instituting proceedings under Article 12 (2) or sections 1 or 3 of Article 13 of this Act, the board of directors shall assess with due care and diligence whether it is possible to remove the causes of the company's insolvency or overborrowing by employing appropriate methods of financial reorganisation within the framework of forced settlement.

Duty of Equal Treatment of Creditors

Article 15

(1) On the occurrence of insolvency or overborrowing, the board of directors shall make no payments nor shall it take on any new liabilities, with the exception of those which are in the opinion of a prudent and conscientious management essential for the going concern of the company.

(2) Payments deemed essential for the going concern of the company shall be in particular:

1. payment of employees' wages up to the amount of funds earmarked for guaranteed wages pursuant to Article 5 of the Guaranteed Wages Act (Ur.l. RS No. 48/90 and 38/94), or up to the amount equalling the minimum wages for individual employees, if the amount of funds earmarked for guaranteed wages does not suffice for paying the minimum wages to individual employees;

2. running costs of business (electricity, water rates, etc.);

3. continuous supply of goods or services necessary for a continued production.

(3) Notwithstanding the provision of section 1 of this Article, the board of directors shall also pay the tax on sales of goods and services carried out by the company, or value added tax or excise duties.

(4) On the occurrence of insolvency or overborrowing, the board of directors or any other management body of the company shall carry out no other measures that might put creditors in an unequal position.

(5) Measures deemed banned under the previous section shall be in particular:

1. transfer of business or financial transactions to another existing or newly established juristic or natural person;
2. legal actions which would in the case of bankruptcy of a company frustrate Article 125 or Article 126 of ZPPSL.

2.2.4. Preparation of a Financial Reorganisation Plan and Implementation of Measures under this Plan

Duties of Board of Directors in Preparing a Financial Reorganisation Plan

Article 16

(1) If the board of directors presents a petition to a court of competent jurisdiction for instituting forced settlement proceedings pursuant to Article 12 (2) or sections 1 or 3 of Article 13 of this Act, it shall forthwith initiate the preparation of a financial reorganisation plan and ensure that the financial reorganisation plan, having the content pursuant to sections 1-3 and section 5 of Article 47 and Article 48 of ZPPSL and having annexes pursuant to Article 47 (4) of ZPPSL, is submitted within the time limit determined in Article 46 (1) of ZPPSL.

(2) When the board of directors in the financial reorganisation plan categorises its trade payables by virtue of paragraph Article 47 (1) 1 of ZPPSL, it shall not offer a different payment of debt to individual categories if by such action the creditors whose receivables are put in a particular category would not be in the equal position.

(3) Notwithstanding the provision under Article 48 (1) and (3) of ZPPSL, the board of directors may put in a special category debts in respect of taxes and contributions and suggest a relief on the whole liability incurred through default interest which was accrued due to a default on the payment of tax and contributions, up to the day on which the forced settlement proceedings were initiated.

Duties of the Board of Directors in Applying Financial Reorganisation Methods on Forced Settlement Confirmation

Article 17

(1) If a forced settlement has been made final by the court, the board of directors shall ensure that all financial reorganisation methods outlined in the financial reorganisation plan are applied.

(2) Even after the decision on initiating forced settlement proceedings has been made final by the court, the board of directors shall treat equally all creditors in accordance with the conditions of the confirmed forced settlement.

(3) Unequal treatment of creditors, which is prohibited by virtue of the previous section, shall be in particular considered the payment of debts to individual creditors amounting to a share which is larger than the share of payment determined by the confirmed forced settlement, or any such payment being made before the date when the debt falls due for payment according to the confirmed forced settlement.

(4) Provisions of Article 15 (4) and (5) of this Act shall also apply after the forced settlement has been made final until the company has met all its liabilities towards its creditors in

compliance with the terms and conditions of the confirmed forced settlement and until it has applied all other methods outlined in the financial reorganisation plan.

(5) Notwithstanding the provision of the previous section, the company may transfer part of its business to a newly established juristic person if such transfer has been outlined as one of the financial reorganisation methods in the financial reorganisation plan.

Duty to Create Provisions

Article 18

(1) If a forced settlement is confirmed, a company shall cover losses of previous years and form additional provisions, both equalling the amount of income which has accumulated due to a write-off of all or part of liabilities in accordance with the conditions of the administration order.

(2) If a company, in pursuance of the previous section, forms additional provisions, any income which has accumulated due to a write-off of all or part of liabilities in accordance with the conditions of the administration order, equalling the amount of the additional provisions formed, does not form part of the tax base for assessing income tax. (3) If in the case referred to in the previous section a company declared a loss in its tax returns in the past five years, it loses the right to cover the declared loss by lowering its tax base in the following years up to an amount equalling the income which, due to the formation of provisions, by virtue of the previous section, does not form part of the tax base for assessing income tax.

2.2.5. Liability of Board of Directors, Supervisory Board or Partners in Bankruptcy of a Company

Liability of Board of Directors in Bankruptcy of a Company

Article 19

(1) The board of directors shall be liable to creditors for any losses incurred by them due to their failure to achieve a full settlement of debts from the bankrupt's estate during insolvency proceedings if the company has been adjudicated bankrupt and subject to the fulfilment of one of the following conditions:

1. if, in case of a limited company, the board of directors in the past two years prior to the institution of bankruptcy proceedings discontinued actions which it was required to carry out pursuant to Article 10 hereof;

2. if in the case referred to in Article 12 (2) or Article 13 (1) or (3) hereof the board of directors failed to submit a petition in bankruptcy or forced settlement proceedings or if it failed to submit such petition within the required time limit,

3. if the board of directors presented a petition in bankruptcy within the time limit pursuant to Article 12 (2) or Article 13 (1) or (3) hereof, but the proceedings were stopped pursuant to Article 33 (2), Article 46 (2) or Article 50 (2) of ZPPSL;

4. if the board of directors submitted a petition in bankruptcy within the time limit pursuant to Article 12 (2) or Article 13 (1) or (3), but the proceedings were stopped pursuant to Article 94 (2) of ZPPSL or if the petition in bankruptcy was rejected;

5. if the board of directors was in breach of regulations under Article 15 of this Act.

(2) In the case from the preceding paragraph, creditors shall be deemed to have sustained a loss equalling the amount of the part of claims that cannot be settled from the bankrupt's estate.

(3) Notwithstanding the provision of paragraph 1 of this Article, the board of directors shall not be liable for losses if it can prove that the losses were not caused by the board's actions from paragraph 1 of this Article but by other reasons whose prevention and avoidance of their harmful consequences was beyond the board's capacity.

(4) The board of directors may be relieved from its liability for the part of losses referred to in paragraph 2 of this Article if it can prove that creditors did not sustain a loss in the entire amount from paragraph 2 of this Article due to the violations from paragraph 1 of this Article.

(5) When the board of directors consists of several members, all members shall be jointly liable for losses, and individual members may be relieved from their liability for losses if they can prove that:

1. in the case from items 1 or 2 of section 1 of this Article they made a proposal at the meeting of the board of directors to carry out of measures from Article 10 or from Article 12 (2) or Article 13 (1) or (3) hereof, but were voted down and did not have the authority to carry out these measures individually, or

2. in the case from items 3 or 4 of paragraph 1 of this Article they did not withdraw the petition in bankruptcy or forced settlement proceedings, or that they could not prevent the omissions that resulted in the stopping of the proceedings or the rejection of the petition;

3. they could not prevent the violations in the case from item 5 of paragraph 1 of this Article.

Liability of Members of Supervisory Board and Partners

Article 20

(1) Members of the supervisory board shall be jointly liable to creditors for any losses incurred by them due to their failure to achieve a full settlement of debts from the bankrupt's estate during insolvency proceedings if the company has been adjudicated bankrupt and subject to the fulfilment of one of the following conditions:

1. if in the past two years prior to the institution of bankruptcy proceedings the board of directors acted in compliance with Article 10 (1) of this Act, while the supervisory board gave an opinion on the report of the board of directors on ensuring capital adequacy, in which it assessed that the company possessed sufficient own funds and that the proposed measures would not be necessary;

2. if they failed to request reports pursuant to Article 256 (1) and (2) of ZGD from the board of directors, and should have requested them as persons acting with reasonable care and diligence;

3. if on the basis of the annual report or other board reports, as persons acting with reasonable care and diligence they could establish that the company failed to comply with capital adequacy requirements, became insolvent or overborrowed, but they failed to carry out the measures within their responsibility to ensure that the board of directors carries out measures which it was required to carry out pursuant to Articles 10 to 15 of this Act.

(2) The partners that voted against the adoption of measures from Article 10 (3) (1) hereof, which the board of directors proposed in the past two years prior to the commencement of bankruptcy proceedings, and the proposed measures were rejected, shall be jointly liable to the

creditors for losses incurred by them due to their failure to achieve a full settlement of debts from the bankrupt's estate during insolvency proceedings.

(3) Provisions of paragraphs 2-5 of Article 19 hereof shall apply, *mutatis mutandis*, to the supervisory board members' liability for losses pursuant to paragraph 1 of this Article or liability of the partners pursuant to paragraph 2 of this Article.

Limitation and Exclusion of Liability to Pay Damages

Article 21

(1) Individual members of the board of directors or supervisory board shall be liable for losses from Article 19 (1) or Article 20 (1) of this Act:

1. in case of a large joint stock company or a limited liability company up to SIT 15,000,000;
2. in case of a medium-sized joint stock company or a limited liability company up to SIT 10,000,000;
3. in all other cases up to SIT 5,000,000.

(2) The limitation of liability to pay damages under the previous paragraph shall not apply if the losses were caused intentionally or by gross negligence.

(3) Liability for losses pursuant to Articles 19 and 20 of this Act cannot be excluded or limited if this would frustrate paragraphs 1 and 2 of this Article.

(4) Provisions of Articles 19 and 20 of this Act shall not exclude the liability to pay damages of members of the board of directors, supervisory board and partners pursuant to other acts.

Capacity ad processum of the Receiver in Bankruptcy

Article 22

(1) Claims for payment of damages pursuant to Articles 19 and 20 of this Act shall be made by a receiver in bankruptcy for the account of all creditors entitled to the settlement of their claims from the bankrupt's estate.

(2) Claims for payment of damages pursuant to Articles 19 and 20 of this Act may be made by individual creditors, however only for the account of all creditors entitled to the settlement of their claims from the bankrupt's estate.

(3) If a court upholds a claim pursuant to paragraphs 1 or 2 of this Article, it shall order the defendant to pay damages into the bankrupt's estate.

3. STRIKING THE COMPANIES OFF THE COURT REGISTER OF COMPANIES WITHOUT LIQUIDATION

3.1. General provisions

Application of Provisions

Article 23

(1) Provisions of this chapter shall apply to companies which are subject to this Act.

(2) Notwithstanding the provision of the preceding paragraph, the provisions of this chapter shall not apply to those companies in which forced settlement, bankruptcy or liquidation proceedings have been commenced pursuant to ZPPSL or pursuant to the act which was in force prior to the enactment of ZPPSL.

(3) Provisions of this chapter shall also apply to the cancellation of other juristic persons when, by virtue of another act, a juristic person should be struck off the register without liquidation.

Jurisdiction of Courts

Article 24

A decision on the striking off the register of juristic persons pursuant to this Act shall be taken by a court which keeps the register in which the legal person, who is struck off the court register of companies in pursuance of this Act, has been entered (hereinafter court of registration).

3.2. THE REASON FOR CANCELLATION AND ITS CONSEQUENCES

The Reason for Cancellation

Article 25

(1) According to regulations, a company shall be struck off the court register of companies subject to the fulfilment of one of the following conditions:

1. if it failed to submit its annual report or its annual accounts to the organisation authorised to analyse and publish data (Article 70 of ZGD) for two consecutive years,
2. if the company has no assets,
3. in the event of the occurrence of any such reason for cancellation of the company as determined by another act.

(2) The reason pursuant to paragraph 2 of the previous paragraph shall be deemed to exist if a company makes no payments through the account held with the organisation which carries out payment transactions for the company continuously for 12 months.

Duty of Notification of the Reason for Cancellation

Article 26

(1) The organisation authorised to process and publish data from Article 70 of ZGD shall notify the court of registration of the occurrence of the reason for cancellation as defined in Article 25 (1) (1) of this Act within one month after the occurrence of the reason for cancellation.

(2) The organisation which carries out payment transactions for the borrower shall notify the court of registration of the circumstances referred to in Article 25 (2) of this Act within one month after the occurrence of these circumstances.

Legal Consequences of Cancellation

Article 27

(1) In pursuance of this Act, a company shall be dissolved when it is struck off the court register of companies.

(2) If on the day when a company is dissolved pursuant to the previous paragraph the company has any employees, their employment shall be terminated as of the day of the company's dissolution.

(3) Employees whose employment has been terminated in pursuance of the preceding paragraph shall have the same rights as the employees whose employment has been terminated due to the commencement of bankruptcy proceedings, including the rights under the Guarantee Fund of the Republic of Slovenia Act (Zakon o jamstvenem skladu Republike Slovenije, Ur.l RS, No 25/97 and 10/98).

(4) In the case from paragraph 1 of this Article, partners or shareholders of the company shall be presumed to have made a statement with the contents determined by Article 394 (1) of ZGD.

(5) The provision of Article 394 (2) and (3) of ZGD shall also apply, *mutatis mutandis*, to the dissolution of the company from paragraph 1 of this Article.

3.3. Cancellation Proceedings

Application of Provisions

Article 28

The decision-making process concerning the cancellation from the court register of companies pursuant to this Act shall be subject to the provisions of the Court Register Act (Zakon o sodnem registru, Ur.l RS, No 13/94 - hereinafter ZSR), unless otherwise determined by this Act.

Decision on Commencing the Cancellation Proceedings

Article 29

(1) The court of registration shall take a decision to commence the proceedings of cancellation of a company from the court register of companies pursuant to this Act after it has identified the occurrence of a reason for cancellation.

(2) The decision on commencing the cancellation proceedings shall be served on the company.

(3) If the court of registration makes a decision to commence the cancellation proceedings on the basis of the notification from Article 26 hereof, the company shall be served with the decision on the commencement of the cancellation proceedings together with the notification from Article 26 hereof and any other documents that were attached to the notification.

(4) The decision to commence the cancellation proceedings shall be entered in the court register of companies.

Appeal against the Decision on Commencing Cancellation Proceedings

Article 30

(1) An appeal against the decision to institute cancellation proceedings may be made within two months following the service of the decision on the company.

(2) An appeal may be lodged in order to contest the resolution on the commencement of the cancellation proceedings on the following grounds:

1. if the actual reason for cancellation was wrongly or incompletely identified on taking the decision to commence cancellation proceedings;

2. if forced settlement, bankruptcy or liquidation proceedings have been commenced for the company pursuant to ZPPSL or pursuant to the act which was in force prior to the enactment of ZPPSL;

3. if a petition in bankruptcy has been presented and if an advance payment has been made for commencing bankruptcy proceedings pursuant to Article 93 (1) of ZPPSL or if the petitioner in bankruptcy has been exempt from advance payment pursuant to Article 93 (3) of ZPPSL.

(3) An appeal may be lodged by:

1. a company;

2. a partner or a shareholder of a company;

3. a creditor of a company.

(4) The appeal shall clearly state all facts showing that the appeal is well founded. The appeal shall be accompanied by documents showing that the appeal is well founded.

Considering an Appeal

Article 31

(1) In the event that an appeal does not include the facts from paragraph 4 of the previous Article or if it is not accompanied by documents from paragraph 4 of the previous Article, the appeal shall not be governed by the provisions of the Incomplete Petitions Act (Zakon o nepopolnih vlogah), but shall be considered by the court of registration on the basis of facts and the accompanying documents.

(2) In considering the appeal, the court of registration shall:

1. dismiss the appeal as belated or inadmissible;

2. dismiss the appeal as unfounded;

3. allow the appeal and set aside the decision on commencing the cancellation proceedings.

(3) Notwithstanding the provision of item 3 of the preceding paragraph, if the appeal was lodged for the reason from item 3 of paragraph 2 of the previous Article, the court of registration shall stay the process of considering the appeal until the court of competent jurisdiction has reached a decision on adjudication in bankruptcy.

(4) If in the event from the preceding paragraph, the court of competent jurisdiction passes an adjudication order, the court of registration shall allow the appeal and set aside the decision on

commencing the cancellation proceedings. However, if, in the event from the preceding paragraph, the court of jurisdiction stays the proceedings due to the withdrawal of a petition in bankruptcy, the court of registration shall dismiss the appeal as unfounded.

(5) No particular complaint against the decision by which the court of registration rejects or dismisses an appeal shall be provided for. The decision from the preceding sentence may be contested by a complaint against the decision on cancellation.

Decision on cancellation

Article 32

(1) If no appeal against the decision on commencing the cancellation proceedings is lodged within the time limit determined by Article 30 (1) of this Act, or if the appeal is rejected or dismissed, the court of registration shall issue a decision on the cancellation of the company from the court register of companies (hereinafter: "decision on cancellation").

(2) If the appeal against the decision on commencing the cancellation proceedings is rejected or dismissed, the court of registration shall take the decision on the cancellation from the court register simultaneously with that on the appeal.

(3) The decision on cancellation shall be served on the company.

Publication of the Decision on Cancellation

Article 33

(1) The decision on cancellation shall be published in the Official Gazette of the Republic of Slovenia (Uradni list Republike Slovenije).

(2) The Official Gazette of the Republic of Slovenia shall publish the decision on cancellation within 15 days following the date of receipt of notification from the court of registration regarding the contents of the announcement.

(3) After the publication, the Official Gazette of the Republic of Slovenia shall have the right to request payment for the publication from the Republic of Slovenia.

(4) The Republic of Slovenia shall recover the amount paid for the publication pursuant to the previous paragraph from partners of a partnership or of a limited liability company or shareholders of a joint-stock-company according to the procedure determined for tax debt recovery.

Complaint against the Decision on Cancellation

Article 34

(1) Complaints against a decision on cancellation shall be allowed within 30 days.

(2) The time limit for complaints from the preceding paragraph shall commence as of the date of service of the decision on the company if the complaint was lodged by a company; in all other cases it shall commence on the day of the publication of the decision on cancellation.

(3) Provisions of Article 30 (2) and (4) and Article 31 hereof shall apply, *mutatis mutandis*, to the complaint and the consideration thereof unless otherwise stipulated in the following paragraphs.

(4) A complaint may be lodged by:

1. persons that lodged an appeal against the decision on commencing the cancellation proceedings and whose appeal was rejected or dismissed,
2. partners or shareholders of companies,
3. creditors of companies.

(5) The persons from paragraph 1 of the preceding paragraph shall not be allowed to present new facts or new evidence in the complaint proceedings..

Cancellation from the Court Register of Companies

Article 35

(1) If no complaint against the decision on cancellation is lodged within the time limit determined by paragraph 1 of the preceding Article or if the complaint is rejected or dismissed, the court of registration shall strike a company off the court register of companies.

(2) The cancellation from the court register of companies shall be published in the Official Gazette of the Republic of Slovenia.

(3) The publication from paragraph 1 of this Article shall include the following particulars about a company as they were entered in the court register of companies:

1. company name, registered office and registration number of the company;
2. names, surnames and addresses of persons authorized to act on behalf of the company;
3. names, surnames and addresses of partners of a partnership or of a limited liability company, or names, surnames and addresses of founders of a joint-stock company.

(4) The Official Gazette of the Republic of Slovenia shall publish the decision on cancellation including the particulars from paragraph 3 of this Article within 15 days following the date of receipt of notification from the court of registration about the contents of the announcement.

(5) Provisions of Article 33 (3) and (4) hereof shall apply, *mutatis mutandis*, to the payment of costs of publication from paragraph 2 of this Article.

3.4. SUBSEQUENTLY FOUND ASSETS

Subsequently Found Assets

Article 36

If a company's assets are found after the company has been struck off the court register of companies, the court shall carry out the liquidation or bankruptcy proceedings for these assets pursuant to the provisions of ZPPSL, on the motion of creditors.

4. TRANSITIONAL AND FINAL PROVISIONS

Legal Persons not Aligned with ZGD

Article 37

(1) Legal persons from Article 580 (5) and (6) of ZGD that failed to bring their operations into line with the provisions of Article 580 (1) and (2) of ZGD before the effective date of this Act and juristic persons from Article 583 (1) of ZGD that failed to align their operations with ZGD before the effective date of this Act shall be struck off the court register of companies without liquidation.

(2) Provisions of Chapter 3 of this Act shall apply, *mutatis mutandis*, to the cancelling of registration of legal persons from the preceding paragraph.

(3) Courts of registration shall issue decisions on the cancelling of registration of legal persons referred to in paragraph 1 of this Article within three months following the effective date of this Act.

Operations of Companies Financed from the Budget

Article 38

Within one month from the effective date of this Act, the minister of finances shall adopt an implementing regulation on the financial operations of companies financed from the budget, which reasonably summarises the provisions of this Act, while at the same time taking into consideration the act which regulates the implementation of the budget.

Annulment of Provisions

Article 39

(1) As of the effective date of this Act, the following provisions shall cease to have effect:

1. Article 257, Article 258, (6) 3, Article 580, (5) and Article 583 of ZGD,
2. Article 69a (2).of the Tax Administration Act (Zakon o davčni službi, Ur.l RS, nos. 18/96, 36/96, 87/97, 48/98 and 26/99).

Application of Individual Provisions

Article 40

(1) Provisions of Articles 10 to 22 shall begin to be applied within 6 months after the enforcement of this Act.

(2) If on the day of the enforcement of this Act a company's financial situation is such that it cannot comply with capital adequacy requirements, becomes insolvent or overborrowed, or if this situation occurs after the enforcement of this Act and not later than six months after its enforcement, in the application of the provisions of Articles 10 to 22 of this Act such financial situation shall be deemed to have occurred on the expiration of the six-month period following the effective date of this Act.

(3) Provisions of Chapter 3 of this Act shall begin to be applied:

1. to companies where the reason for cancellation of registration from Article 25, (1) 1 of this Act occurs within three years after the effective date of this Act or later
2. to companies subject to the assumption from Article 25 (2) of this Act, if after the effective date of this Act they have effected no payments through the account held with the organisation

that carries out payment transactions on their behalf during a twelve-month period without interruption.

Article 40.a

(1) The Agency of the Republic of Slovenia for Payments (hereinafter: "the Agency") shall establish on 24 January 2000 the amount of orders for payment of liabilities due and outstanding (the number, amount and type of liabilities) that were submitted to the Agency by 24 January 2000 and were not honoured up to and including January 23, 2000 because of the account holders' insolvency.

(2) By 24 February 2000, the Agency shall return orders for payment of liabilities arising out of the traffic in goods and services, orders for payment of liabilities to foreign customers, orders for payment of liabilities for loans, and orders for payment of wages, with the exception of orders for payment of employees' wages in the amount from Article 15 (2) 1 hereof, reimbursement of employees' expenses and other earnings arising from employment contracts, which were submitted to the Agency up to and including 23 January, 2000 to their issuers. If orders cannot be returned to the issuers, they shall be filed by the Agency.

(3) The Agency shall keep in its records of liabilities due and outstanding the orders that were submitted to it by 23 January 2000 and that are used in the settlement of the following liabilities: sales tax, value added tax, excise duties, reimbursements and other receipts of employees guaranteed by other legal persons pursuant to regulations, employees' wages up to the amount from (2)1 of Article 15 (2) 1 hereof, enforceable court decisions, enforceable penalty decisions and orders, other enforceable decisions and orders, orders and final decisions of bodies and organisations which they are authorised to issue by law, and other legal obligations.

Article 40.b

(1) Notwithstanding the provisions of Article 85 of the Tax Procedure Act (Zakon o davčnem postopku, Ur.l. RS No. 18/96, 87/97, 35/98 – decree US, 82/98 and 91/98; hereinafter: "ZDavP"), and notwithstanding the provisions of Article 147 of the Execution of Judgements in Civil Matters and Insurance of Claims Act (Zakon o izvršbi in zavarovanju, Ur.l. RS No. 51/98), in case of an account holder's insolvency in the period before 23 July 2000, employees' wages shall be paid up to the amount from Article 15 (2)1 hereof after any liabilities to pay sales tax, value added tax, excise duties, reimbursements and other earnings of employees guaranteed by other legal persons pursuant to regulations, and before any debts arising from other legal obligations which, for instance, include other taxes, social security contributions and import duties within the meaning of Article 130 of ZDavP, and before any debts arising from enforceable court decisions, enforceable penalty orders and decisions, other enforceable decisions, orders and final decisions of bodies and organisations which are authorised to issue them by law, whereby the debt arising out of the obligation to pay other taxes, social security contributions and customs duties shall have priority over the debt arising from other liabilities.

(2) The Agency shall return to the issuers all orders for payment of due and outstanding liabilities submitted after 23 January 2000 and not recorded as due and outstanding liabilities pursuant to this Article, for which there are insufficient funds on the account on their maturity, not later than on the following business day.

(3) Notwithstanding the provisions of Article 40 (3) hereof, the Agency shall return to the issuers orders for payment of guaranteed wages submitted to the Agency by 23 July 2000 and not executed by 23 July 2000 due to the insolvency of account holders. If the orders cannot be returned to their issuers, they shall be filed by the Agency.

(4) The Agency shall also keep a record of orders issued by the Tax Administration pursuant to Article 69.a of the Tax Administration Act (Zakon o davčni upravi, Ur.l. RS no. 18/96, 36/96, 87/97, 48/98 and 26/99), in the manner set out in Article 54 of ZDavP for forced settlement decisions.”

Effective date

Article 41

This Act shall come into force fifteen days following its publication in the Official Gazette of the Republic of Slovenia.

Number: 414-01/99-4/1
Ljubljana, 24.June 1999

Chairman
of the National Assembly
of the Republic of Slovenia
Janez Podobnik, M.D., s.