

LAW of the REPUBLIC of TAJIKISTAN
“On BANKRUPTCY of the ENTERPRISES”

*(This law was amended by bankruptcy laws of the Republic of Tajikistan
No. 421 as of May 15, 1997 and No. 624 as of May 22, 1998)*

Article 12 Preliminary procedures

1. Not later than one month from the date of the acceptance of the case, the bankruptcy court (People’s Court) shall conduct a meeting with the debtor, representatives of the State Property Committee of the Republic of Tajikistan (if the state owns any part of the debtor’s property), financial agencies in the location where the debtor is registered, the servicing bank (or banks), and the creditors.

In case of need, the court may appoint a bankruptcy manager of the debtor.

The owner of the debtor and the management authority of the debtor have no right to dispose the assets of the enterprise from the date the bankruptcy manager is appointed.

Within three months’ period, the bankruptcy manager must take measures to reach the agreement between the creditors and debtors to reorganize the enterprise, or to settle debts, or to find a possibility to conclude a peaceful compromise. The court can prolong the period but not more than for ____ months. In case the agreement is not reached, the court adjudicates to initiate liquidation procedure as it is stipulated in the current Law (Bankruptcy Law of the Republic of Tajikistan No.624 as of May 22, 1998).

The debtor and a representative (or representatives) of the owner (or owners) of the enterprise property can make a motion to dismiss the bankruptcy case and conduct sanitation (financial rehabilitation) of the enterprise.

Bankruptcy court (People’s Court) shall consider the motion and, within 40 days, make a ruling of granting or denying it.

On the basis of this motion, the bankruptcy court (People’s Court) may hire independent experts at the debtor’s expense to determine the possibility or feasibility of sanitation (financial rehabilitation).

In the absence of a guarantee from a third party to satisfy the creditors’ claims to the debtor and to cover the court costs, the bankruptcy court (People’s Court) may, by publishing an announcement in the press, declare a competition for legal entities and citizens who wish to participate in the sanitation (financial rehabilitation) of the debtor. If within one month no such persons appear, or if the debtor does not agree with their terms for participating in the sanitation (financial rehabilitation), the debtor’s bankruptcy case shall proceed in the procedure prescribed by this Law.

In order to prevent the adjudication of the bankruptcy case, the debtor may propose a peaceful compromise to the creditors, discounting the debt and allowing the debtor to defer payments and make installment payments. Bankruptcy court (People’s Court) shall approve the agreement of the creditors and the debtor on a peaceful compromise.

Article 19 Participants in bankruptcy proceedings

The participants in bankruptcy proceedings shall be the bankruptcy court (People's Court), the bankruptcy trustee, the creditors' meeting, the debtor and other persons concerned.

Article 21 The authority of the trustee of bankrupt's estate

The trustee of bankrupt's estate shall:

- take over the management and disposal of the debtor's property;
- study the validity of the creditor's claims;
- muster the bankruptcy estate;
- submit necessary information on the debtor's financial condition to the bankruptcy court (People's Court), creditors, and the government's control and tax authorities;
- act as director of the enterprises, if the director is removed for committing illegal acts;
- may appoint an accountant and other persons to manage the business; with the approval of the bankruptcy court (People's Court) may obtain credit to conduct business, including by mortgaging the assets of the enterprise that have not been mortgaged yet.

In order to enhance social protection of the labor collectives from the moment the enterprise is declared bankrupt, the bankruptcy trustee shall be obliged to cancel labor agreements (contracts) with the employees of the enterprise, including temporary labor agreements, in accordance with the requirements for giving notice of such cancellation;

- act as financial auditor if the director retains his position;
- dispute deals entered into by the debtor in the six months preceding the declaration of the debtor's insolvency;
- appoint the staff and oversee the work of the liquidation committee.

Within three days' period after the proprietor submits application, the director (or another competent person) shall be obliged to notify labor collective of the application made.

Article 24 Appraisal of the property and debt

All assets of the debtor, regardless of whether they are shown on the enterprise's balance sheet, shall constitute the basis for forming the bankruptcy estate.

During the bankruptcy proceedings the bankruptcy trustee shall, with the help of the outside experts, perform an inventory and appraisal of the debtor's property (assets) and debts.

The debtor's estate, which is subject to liquidation, shall be appraised in the established procedure and sold at auction; the appraised value shall be the starting price. If the enterprise is not sold as a whole, the bankruptcy trustee shall begin selling the property of the enterprise separately at auction.

The bankruptcy estate shall not include:

- personal property that does not belong to the debtor;

- personal property of the employees of the enterprise;
- goods held in safekeeping by the debtor;
- other property not owned by the debtor in accordance with the current law.

Article 30 Report of the bankruptcy trustee

After the debtor is released from its debts and the claims of creditors are satisfied, the bankruptcy trustee shall submit to the bankruptcy court (People's Court) a final report on his work with the balance sheet and a report on the use of the funds remaining after satisfaction of the claims.

Article 31 Approval of the bankruptcy trustee's report

The bankruptcy court (People's Court) shall approve the bankruptcy trustee's report, make the decision to close the bankruptcy proceedings, and inform the agency responsible for the state registration of enterprises of its decision.