

ACT  
AMENDING THE FINANCIAL OPERATIONS, INSOLVENCY PROCEEDINGS AND  
COMPULSORY DISSOLUTION ACT (ZFPIPP-C)

Article 1

Point 6 of Article 4 of the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (Official Gazette of the Republic of Slovenia – Uradni list RS, nos. 126/07, 40/90 and 50/09) shall be deleted.

The current points 7 and 8 shall be renumbered as points 6 and 7.

Article 2

In the introductory sentence of paragraph (4) of Article 14, the text "legal person becomes illiquid for a longer period of time" shall be replaced by the text "legal person, entrepreneur or private person becomes illiquid for a longer period of time".

Article 3

In paragraph (2) of Article 21, the words "taxes and" shall be deleted.

Article 4

At the end of point 2 of paragraph (1) of Article 22, the word "and" shall be deleted, and at the end of point 3, the full stop shall be replaced by a comma followed by the word "and". A new point 4 shall be added to read as follows:

"4. The owner of the commodity reserves shall be entitled to request the insolvent borrower to deliver to the owner the commodity reserves owned, stored or used by the insolvent borrower."

Article 5

Article 24 shall be followed by Article 24a which shall read as follows:

"Article 24a

(Qualified financial contract and offset arrangement)

(1) A qualified financial contract shall be a contract, the subject matter of which covers financial instruments according to the act governing the financial instruments market, and derivative financial instruments associated with goods or emission rights, which can be settled by transferring underlying instruments.

(2) An offset arrangement shall have the following meaning:

1. a contractual arrangement between the parties which is incorporated into individual qualified financial contracts or concluded as a framework agreement associated with certain types of qualified financial contracts, to be concluded between the parties to the contract; and

2. an arrangement including the following rules which are applied when a contracting party becomes insolvent or when a situation occurs which, according to the offset arrangement, results in a breach of obligations by a contracting party (hereinafter: Breach Situation):

- the rule that, upon the occurrence of a Breach Situation, the qualified financial contract is considered to be terminated or that, upon the occurrence of a Breach Situation, the other contracting party acquires the right to withdraw from the contract or that, upon the occurrence of a Breach Situation, all the obligations of the contracting parties expire,

- the rules on calculating the offset, market, liquidation or replacement cash value of the mutual obligations of the contracting parties upon the termination of the contract or early maturity pursuant to the contract rules referred to in the first indent of this point,

- the rules on the conversion of the amounts of liabilities referred to in the second indent of this point into a single currency when such amounts are expressed in different currencies, and

- the rules on determining the net amount of the financial liabilities and financial receivables of a contracting party following the offset of the amounts of liabilities of the contracting parties, valued in accordance with the second indent and converted in accordance with the third indent of this point."

#### Article 6

Paragraph (4) of Article 41 shall be amended to read as follows:

"(4) Paragraphs (1) to (3) of this Article shall also apply, *mutatis mutandis*, if the company is financially restructured outside the compulsory settlement procedure on the basis of a report on financial restructuring measures referred to in Article 35 of this Act by reaching an out-of-court settlement, under which the liabilities of the company are reduced as a result of a partial debt write-off agreed by the creditors under the settlement procedure, provided that such out-of-court settlement covers at least 6/10 of the creditors' total amounts receivable from the company."

#### Article 7

In Article 48, a new paragraph (3) shall be added to read as follows:

"(3) In the civil procedures for the challenging of legal acts of a debtor in bankruptcy referred to in sub-section 5.3.4 of this Act and the civil procedures relating to the testing of the claims and rights to separate settlement and the exclusion rights referred to in sub-section 5.6 of this Act, the court shall hold a settlement hearing and, if no settlement hearing is held, the first main hearing shall be held no later than within two months from receipt of the reply to the lawsuit."

#### Article 8

Article 51 shall be amended to read as follows:

"Article 51

(Jurisdiction of the court)

The district court shall have the jurisdiction to decide in insolvency proceedings."

Article 9

In Article 52, a new paragraph (4) shall be added to read as follows:

"(4) The Ljubljana Higher Court shall have the jurisdiction to decide in all insolvency proceedings."

Article 10

In Article 53, a new paragraph (2) shall be added to read as follows:

"(2) A judicial assistant may independently perform the following procedural acts of the court in insolvency proceedings:

1. notify the insolvency administrator of all matters which the insolvency administrator requires notification of under this Act,
2. publish the contents of procedural acts according to Article 122 of this Act."

Article 11

In Article 59, a new paragraph (4) shall be added to read as follows:

"(4) A creditor who voluntarily returns to the debtor in bankruptcy the proceeds from a challengeable legal act prior to the service of the action referred to in paragraph (3) of this Article, shall notify his claim arising under paragraph (3) of Article 278 of this Act."

The current paragraph (4) shall be renumbered as paragraph (5).

Article 12

In paragraph (2) of Article 60, two new points, 4 and 5, shall be added to read as follows:

- "4. if the creditor exercises his claim as preferential: a specific request that the claim shall be treated as preferential on distribution,
5. if the creditor exercises his claim as contingent: a specific description of circumstances, the occurrence of which means the accomplishment of a suspensive or a resolutive condition associated with the claim."

Article 13

Point 4 of paragraph (4) of Article 61 shall be amended to read as follows:

4. the capitalised amount of interest specified in point 2 of paragraph (2) or point 1 of paragraph (5) of Article 60 of this Act, the amount of the costs referred to in point 3 of paragraph (2) of Article 60 of this Act and the information referred to in points 4 and 5 of paragraph (2) of Article 60 of this Act, if they are included in the notification of claim,"

#### Article 14

In the introductory sentence of paragraph (1) of Article 65, the words "the administrator shall" shall be replaced by the words "if the objection referred to in paragraph (1) of Article 62 of this Act or the objection to the negation of the claim referred to in Article 63 of this Act is entered against the basic list of tested claims, the administrator shall".

#### Article 15

Point 2 of paragraph (4) of Article 68 shall be deleted.

The current points 3 and 4 shall be renumbered as points 2 and 3.

#### Article 16

Point 1 of paragraph (4) of Article 69 shall be amended to read as follows:

1. adopt a decision to test the claims and notify the administrator thereof within the following time limits:

- if in accordance with paragraph (1) of Article 65 of this Act an updated list of tested claims is published pursuant to paragraph (1) of Article 65 of this Act and an objection is raised against this list in a compulsory settlement procedure and in a bankruptcy procedure within three and fifteen business days of the expiration of the time limit for objection against the list of tested claims, respectively,

- if an updated list of tested claims is published in accordance with paragraph (1) of Article 65 of this Act and no objection is raised against this list, within three business days of the expiration of the time limit for objection against the updated list of tested claims,

- if no objection is raised against the basic list of tested claims and no objection referred to in paragraph (1) of Article 62 of this Act or objection to the negation of claims referred to in Article 63 of this Act, within three business days following the expiration of the time limits for objection, and".

#### Article 17

In Article 95, a new paragraph (3) shall be added to read as follows:

"(3) Notwithstanding paragraph (1) of this Article, the location of the venue of the creditors' committee may be outside the territorial jurisdiction of the court conducting the proceedings, provided that an alternative venue is agreed to by all the members of creditors' committee."

## Article 18

In paragraph (3) of Article 99, the text "within forty-five days" shall be replaced by the text "within one month".

## Article 19

Paragraph (4) of Article 100 shall be amended to read as follows:

"(4) The administrator and the creditors' committee shall have the right to appeal against the decision of the court concerning the objection referred to in paragraph (2) of this Article."

## Article 20

In point 1 of paragraph (4) of Article 103, the words "which is determined in proportion to the value of the assets, shown in the opening balance sheet of the debtor in bankruptcy referred to in the second paragraph of Article 291 of this Act" shall be deleted.

Paragraph (6) shall be followed by a new paragraph (7) to read as follows:

"(7) The compensations included in the remuneration of the administrator shall be the compensations for all services that are necessary for the performance of the administrator's duties in insolvency proceedings, with the exception of the following:

1. legal services referred to in paragraph (5) of this Article,
2. accounting services relating to the keeping of books of account and the preparation of financial statements and tax returns in bankruptcy proceedings,
3. services of chartered appraisers,
4. intermediation services in the sale of property on the stock exchange or other regulated markets where trading is allowed only to authorised market participants,
5. document archiving services pursuant to archiving regulations,
6. other services that require specialist expert knowledge in areas that are not subject to the certification examination of administrators or that can be provided in individual proceedings to the extent that they cannot be provided by the administrator himself."

The current paragraph (7) shall be renumbered as paragraph (8).

## Article 21

In Article 106, new paragraphs (4) to (6) shall be added to read as follows:

"(4) In the exercise of the supervisory function referred to in paragraph (1) of this Article, the ministry responsible for justice may carry out the following:

1. examine the insolvent debtor's documents which were taken over by the administrator for the purpose of the insolvency proceedings, and the documents which the administrator is required to keep for the purpose of these proceedings, or request the association of administrators to carry out such an examination,

2. request that disciplinary proceedings be initiated against the administrator, and

3. order or carry out other measures necessary in order to check whether the administrator is performing his insolvency procedure duties in accordance with the law.

»(5) The examination referred to in point 1 of paragraph (4) of this Article shall be carried out by university graduate lawyers who have at least five years' practical experience in insolvency procedures after having passed their national bar examination and are appointed by the minister responsible for justice

(6) The association of administrators shall supervise the administrators' activities pursuant to the rules laid down in sub-section 3.6.4 of this Act."

#### Article 22

In paragraph (2) of Article 108, the words "in a legal or economic field" shall be deleted.

In point 5 of paragraph (2), the figure "150 000" shall be replaced by the figure "500 000".

#### Article 23

Points 1 and 2 of paragraph (1) of Article 109 shall be deleted. The current points 3 and 4 shall be renumbered as points 1 and 2.

Paragraph (2) shall be deleted.

The current paragraphs (3) to (6) shall be renumbered as paragraphs (2) to (5).

At the end of point 4 of the current paragraph (5), which shall be renumbered as paragraph (4), the full stop shall be replaced by a comma and a new point (5) shall be added to read as follows:

"5. if the disciplinary committee issues a final decision depriving the administrator of the right to perform his duties as administrator."

A new paragraph (6) shall be added to read as follows:

"(6) If the disciplinary committee issues a final decision depriving the administrator of the right to perform his duties as administrator, the association of administrators shall notify the ministry responsible for justice thereof within three business days following the date on which such decision becomes final."

#### Article 24

Paragraphs (1) and (7) of Article 111 shall be amended to read as follows:

"(1) A person holding a valid authorisation to perform the function of administrator shall choose at least one, and may choose all district courts, at which to perform the function of administrator.

(2) The statement on the selection of district courts referred to in paragraph (1) of this Article shall be attached to the person's request for authorisation to perform the function of administrator.

(3) A person may change his choice of court by submitting an appropriate statement to the ministry responsible for justice.

(4) A person may change its choice of court:

1. either by terminating its function of administrator with a particular district court,
2. or by choosing an additional district court at which it will perform the function of administrator.

(5) The ministry responsible for justice shall keep a list of the administrators that chose a particular district court for each district court separately (hereinafter: List of Selected Administrators in Individual District Courts). The administrators shall appear in the list of administrators selected according to the reference numbers of the relevant authorisations to perform the administrator function.

(6) The change in the choice of district courts referred to in point 1 of paragraph (4) of this Article shall become effective upon the date of entry of this change in the list of administrators and shall have no bearing on the person's duties and responsibilities in the proceedings for which the person is appointed as administrator before the change of choice takes effect.

(7) The change in the choice of district courts referred to in point 2 of paragraph (4) of this Article, which is required to be made before 30 November of each year, shall become effective on 1 January of the following year.

Article 25

Article 112 shall be amended to read as follows:

"Article 112

(Temporary suspension of appointment of administrator in new cases)

(1) A person entered in the list of administrators may request a temporary suspension of its appointment for new cases:

1. if the person is appointed for a state or international function that requires professional performance: for the duration of such function,

2. in all other cases: for the period indicated in the application, which shall not be shorter than three months.

(2) The minister responsible for justice shall also temporarily suspend the appointment of individual persons as administrators in new cases on the grounds of criminal proceedings initiated against such persons for a suspected criminal offence referred to in paragraph (3) of Article 108 of this Act, committed in the discharge of the duties and responsibilities of administrators in insolvency proceedings, and when in such proceedings

1. a sentence is passed for criminal offences, carrying a fine or a prison term of up to three years as the principal penalty,

2. the charge becomes final for other criminal offences,

3. the person is finally remanded into custody notwithstanding the type of the alleged criminal offence.

(3) The temporary suspension of an appointment referred to in paragraph (2) of this Article shall remain in place:

1. until the decision in the criminal proceedings becomes final, if the criminal proceedings are finally suspended, or a judgment of refusal or acquittal has been passed,

2. until the decision to revoke the authorisation to perform the function of administrator if the person is finally convicted in criminal proceedings,

3. until the decision to release from custody becomes final, if the person is released from custody, and the conditions from point 1 or 2 of paragraph (2) of this Article are not satisfied.

(4) The minister responsible for justice shall enter in the list of administrators the period of the temporary suspension of the appointment of an administrator in the new cases referred to in point 6 of paragraph (2) of Article 100 of this Act.

(5) The minister responsible for justice shall decide on the following:

1. the request from paragraph (1) of this Article within eight days of receipt,

2. the temporary suspension of the appointment according to paragraph (2) of this Article within three business days of becoming aware of the reason specified in paragraph (2) of this Article,

(6) The criminal court shall notify the minister responsible for justice of the legal fact referred to in paragraph (2) or (3) of this Article on the date following the occurrence of this fact.

(7) The period of suspension of the temporary appointment of an administrator in new cases shall commence on the date of entry of this legal fact in the list of administrators.

(8) The administrator whose appointment for new cases has been temporarily suspended shall be discharged by the court in all insolvency proceedings for which the administrator was appointed within three business days of receipt of the notification of entry of this legal fact in



the register of administrators. The discharge referred to in the preceding sentence shall be subject, *mutatis mutandis*, to paragraphs (5) and (6) of Article 120 of this Act."

#### Article 26

Paragraphs (3), (4) and (5) of Article 116 shall be amended to read as follows:

"(3) The court shall, on each occasion, appoint another person from the list of selected administrators of a particular district court as administrator in the same order as they are entered in the list referred to in Article 111 of this Act. The order of appointment of administrators shall be kept separately for the next group of insolvency proceedings:

1. for compulsory settlement and bankruptcy proceedings against a legal person, and
2. for personal bankruptcy and probate proceedings.

(4) Notwithstanding paragraph (3) of this Article, a person who has performed the duties and responsibilities of an administrator for at least two years before the appointment may be appointed administrator of a company which is categorised as a large company according to Article 55 of the Companies Act (ZGD-1).

(5) If a person that does not meet the conditions specified in paragraph (4) of this Article should be appointed administrator in bankruptcy proceedings against a company which is considered to be a large company according to Article 55 of ZGD-1, in the order referred to in paragraph (3) of this Article, the court shall appoint the next person that meets these conditions as an administrator."

#### Article 27

A new sub-section 3.6.4 shall be added after Article 120 under the heading "Association of Administrators and disciplinary responsibility of administrators", followed by new Articles 120a to 120p which shall read as follows:

##### "Article 120a

(Association of Administrators)

(1) Persons who are validly authorised to perform the administrator function shall be obliged to join the Association of Administrators (hereinafter: the Association).

(2) The Association shall be a legal entity with duties and responsibilities laid down by the law or the Articles of the Association.

(3) The decision making process in matters covered by sub-section 3.6.4 of this Act shall be subject to the act governing the general administrative procedure unless otherwise provided for by the rule from sub-section 3.6.4 of this Act.

##### Article 120b

(Duties and responsibilities of the Association)

(1) The Association shall be concerned with the reputation of the administrator function and the development of good business practice among the administrators.

(2) The duties of the Association regarding the safeguarding of the reputation of the administrator function and the development of good business practice among the administrators shall be as follows:

1. to establish a permanent professional training programme for administrators,
2. to adopt a code of good business practice for administrators, and
3. to give administrators recommendations for the exercising of good business practice.

#### Article 120c

(The method of supervision of the Association and the administrators)

(1) In exercising control over the administrators, the Association may carry out the following:

1. examine the insolvent debtor's documents which were taken over by the administrator for the purpose of insolvency proceedings, and the documents which the administrator is required to keep for the purpose of these proceedings,
2. order or carry out other measures that are necessary to check whether the administrator performs his insolvency procedure duties according to the law and the good business practice of the administrators,
3. order administrators to rectify irregularities in their operations and to prepare a report thereon.

(2) The Association shall perform the examination referred to in point 1 of paragraph (1) of this Article if so required by the minister responsible for justice and shall submit a report thereon to the Minister.

#### Article 120 d

(Control over the Association)

(1) The ministry responsible for justice shall have the responsibility to oversee the operation of the Association.

(2) In the exercise of the supervisory function referred to in paragraph (1) of this Article, the ministry responsible for justice may do the following:

1. review the operation of the Association,
2. require the Association to report on control procedures over individual administrators or other matters within the competence and responsibilities of the Association under this Act,

3. order or implement other measures necessary to ensure that the Association carries out its responsibilities according to the law.

(3) The Association shall submit a report on its work carried out during the previous year to the ministry responsible for justice by 31 January each year.

#### Article 120e

(Status of association members)

(1) A person shall acquire the status of Association member when he is entered into the list of administrators referred to in Article 100 of this Act; his membership shall expire when he is struck off this list.

(2) The ministry responsible for justice shall notify the Association of the registration of a new administrator in the list of administrators or of the deletion of the administrator from this list within three business days following such registration or deletion.

#### Article 120f

(Bodies of the Association)

(1) The bodies of the Association shall be the general meeting, the board of directors and the president of the Association.

(2) The general meeting of the Association shall be comprised of all members of the Association.

(3) The board of directors and the president of the Association shall be elected by the general meeting of the Association for a term of four years.

#### Article 120g

(Articles of Association and other general documents of the Association)

(1) The general meeting shall adopt the Articles of Association and other general documents of the Association that govern the organisation and operation of the Association and matters within its remit.

(2) The Articles of the Association and amendments thereto shall come into force when they are approved by the minister responsible for justice.

#### Article 120h

(Disciplinary responsibility of administrators)

(1) Administrators shall be subject to disciplinary responsibility

1. for a breach of the administrator obligations laid down by this Act, or for a breach of the rules of good business practice for administrators in the discharge of their duties as administrators in insolvency proceedings,

2. for a delay in the payment of membership fees and other dues to the Association,

3. for a failure to participate in training in accordance with the permanent professional training programme determined by the Association.

(2) Administrators shall be deemed to have committed a serious disciplinary offence:

1. if they breach their obligations referred to in paragraph (3) of Article 98 of this Act,

2. if they breach their obligations as administrators laid down by this Act in the discharge of their duties and responsibilities in insolvency proceedings and such breach of obligations results in damage to the property of the insolvent borrower which is included in the bankrupt's estate,

3. if they commit an offence referred to in point 1 of paragraph (1) of this Article with the same characteristics for a second time in a five-year period or an offence referred to in points 2 and 3 of paragraph (1) of this Act with the same characteristics for a second time during the past year.

Article 120i

(Disciplinary measures)

(1) Administrators may be sentenced for a serious disciplinary offence

1. with a fine of not less than EUR 5 000 and not more than EUR 15 000,

2. with a conditional withdrawal of authorisation to perform the function of administrator, which shall be carried into effect if the administrator commits the same disciplinary offence twice,

3. with a permanent withdrawal of authorisation to perform the function of administrator.

(2) For disciplinary offences that do not possess the characteristics of a serious disciplinary offence referred to in paragraph (1) of this Article, an administrator may be

1. issued a reprimand,

2. penalised by a fine of not less than EUR 1 700 and not more than EUR 15 000.

(3) When imposing disciplinary sanctions, the gravity of the offence and its consequences, the level of responsibility involved, prior work and the behaviour of the person against whom the disciplinary proceedings are conducted, and eventual prior disciplinary measures, shall be taken into consideration.

(4) If the disciplinary committee imposes a fine as a disciplinary measure, it shall also lay down the time limit for the payment of this fine, which shall not be less than one month and not more than six months.

(5) The disciplinary committee shall issue a decision imposing on the administrator a disciplinary measure to reimburse the Association for the costs of the administrative proceedings.

(6) The final decision on imposing a fine or reimbursement of the costs of disciplinary proceedings shall represent an instrument permitting enforcement, on the basis of which compulsory collection in judicial execution may be carried out upon the proposal of the Association.

(7) The proceeds from fines shall be used for the purposes laid down by the Articles of the Association.

#### Article 120j

##### (Disciplinary records)

(1) For the purpose of exercising control under this Act, the Association shall keep disciplinary records and process the following data on final disciplinary measures:

1. administrator identification data,
2. information on the disciplinary committee's decision,
3. the disciplinary measures imposed.

(2) Disciplinary records shall be permanently archived.

(3) The disciplinary record data may be obtained by the Association's bodies and the ministry responsible for justice when they require such data in order to exercise control over administrators under this Act.

#### Article 120k

##### (Disciplinary proceedings bodies)

(1) There shall be two disciplinary proceedings bodies: a disciplinary committee of the first instance and a disciplinary committee of the second instance.

(2) The disciplinary committee of the second instance shall be composed of a chairman and two members.

(3) The chairman and one member of the disciplinary committee of the first instance and their deputies shall be appointed from among the district judges in insolvency proceedings by the minister responsible for justice, and one member and his deputy shall be elected by the general meeting of the Association from among the administrators.

(4) The chairman and one member of the disciplinary committee of the second instance and their deputies shall be appointed from among the higher or supreme court judges in insolvency proceedings by the minister responsible for justice, and one member and his deputy shall be elected by the general meeting of the Association from among the administrators.

(5) The chairman and members of the disciplinary committee of the first and second instances and their deputies shall be appointed or elected for a term of four years and may be subject to re-election upon the expiration of this period.

(6) If the chairman or a member of the disciplinary committee is held back or excluded, his deputy shall act as a substitute.

(7) The exclusion of a member of the disciplinary committee shall be decided by the chairman of the disciplinary committee.

(8) The exclusion of the chairman of the disciplinary committee of the first instance shall be decided upon by the chairman of the disciplinary committee, and the exclusion of the chairman of the disciplinary committee of the second instance by the minister responsible for justice.

#### Article 120 1

##### (Institution of disciplinary proceedings)

(1) A proceedings initiated before the disciplinary committee of the first instance shall be instituted by the chairman of the Association on his own initiative or on the proposal of the ministry responsible for justice, the chairman of the district court or the president of the supreme court.

(2) A proceedings initiated against the chairman of the Association before the disciplinary committee of the first instance shall be instituted by the minister responsible for justice, either on his own initiative or on the proposal of the president of the district court or higher court.

(3) The proceedings specified in paragraphs (1) and (2) of this Article shall be instituted following the decision to commence disciplinary proceedings, against which there shall be no appeal.

(4) In the event of a proposal for the commencement of the disciplinary proceedings referred to in paragraphs (1) or (2) of this Article, disciplinary proceedings shall be instituted by the chairman of the Association or the minister responsible for justice within one month of receipt of such proposal.

(5) A decision to initiate disciplinary proceedings shall include the following:

1. a description of the disciplinary offence providing the grounds for initiating the proceedings, and

2. evidence that the alleged offence has been committed.

## Article 120m

### (Disciplinary proceedings before first instance committee)

(1) The chairman of the disciplinary committee shall send the decision to institute disciplinary proceedings to the administrator against which the proceedings are brought, including a notification of the right to appeal within 15 days of receipt of the decision.

(2) The disciplinary committee chairman shall schedule a hearing within eight days of receipt of the administrator's statement regarding the alleged offence or, after the expiration of the time limit from paragraph (1) of this Article, schedule a hearing for a date which is not later than one month after the invitation date.

(3) The invitation to the hearing shall be served on the administrator against which the disciplinary proceedings are brought at least eight days before the hearing date and shall include a notification of the consequences referred to in paragraph (4) of this Article and of the rights referred to in paragraph (5) of this Article.

(4) If the administrator against which the disciplinary proceedings are brought is duly invited but fails to attend the hearing, the hearing may take place in the absence of the administrator.

(5) The administrator shall be entitled to make his defence either orally or in writing by sending it to the first instance disciplinary committee before the hearing.

(6) The hearing held before the first instance disciplinary committee shall not be public unless so required by the administrator against which the disciplinary proceedings are brought.

(7) The chairman of the first instance disciplinary committee shall issue a written copy of the first instance disciplinary committee's decision and shall serve it on the following persons:

1. the administrator against which the disciplinary proceedings are brought,
2. the chairman of the Association and
3. the minister responsible for justice.

## Article 120n

### (Disciplinary proceedings before second instance committee)

(1) An appeal may be lodged against the decision of the second instance committee within 15 days.

(2) An appeal may be lodged by:

1. the administrator against which the disciplinary proceedings are brought,
2. the chairman of the Association and
3. the minister responsible for justice.

(3) During its meeting, the second instance disciplinary committee shall decide on the appeal within two months of receipt, without prior hearing.

#### Article 120o

(Disciplinary proceedings before the second instance committee)

(1) An administrative dispute may be initiated against the decision of the second instance committee by which the administrator is conditionally or permanently deprived of the right to perform his administrator duties, or by which the decision of the first instance committee, imposing such measure, is affirmed.

(2) An action in an administrative dispute may be brought by the persons referred to in paragraph (2) of Article 120n of this Article.

#### Article 120p

(Limitation of the prosecution of disciplinary offences and enforcement of disciplinary sanctions)

(1) The prosecution of disciplinary offences shall fall under the statute of limitations after five years from the date of the offence.

(2) If a disciplinary offence also has the characteristics of a criminal offence which is subject to prosecution *ex officio*, the prosecution of such offence shall fall under the statute of limitations within the same time limit determined by the act determining the statute of limitations for the prosecution of criminal offences.

(3) The limitation of prosecution of disciplinary offences shall be interrupted by any act in the proceedings before the disciplinary committee.

(4) Enforcement of disciplinary sanctions shall fall under the statute of limitations within five years of the date of the final decision imposing such sanctions.

(5) At all events, the prosecution of a disciplinary offence shall fall under the statute of limitations on the expiration of double the time determined for limitation of prosecution pursuant to paragraphs (1) and (2) of this Article.

#### Article 28

In point 2 of paragraph of Article 122, a new first and second indent shall be added to read as follows:

"– a resolution to initiate personal bankruptcy proceedings,

– a court decision regarding the proposal to commence the debt write-off procedure or to impose on the debtor the obligation to perform certain activities in the process of debt write-off procedure,".

The current first, second and third indents shall become third, fourth and fifth indents.



## Article 29

Article 123 shall be followed by Article 123a which shall read as follows:

"Article 123a

(Electronic submission and service of written documents)

(1) The lawyer representing a party to insolvency proceedings shall submit a notification of claims and other requests of that party electronically, signed with the secure electronic signature based on a qualified certificate.

(2) If the notification specified in paragraph (1) of this Article is not submitted electronically, it shall not be subject to incomplete application rules and shall be rejected by the court.

(3) All written documents shall be submitted to the lawyer representing a party to insolvency proceedings electronically to the lawyer's secure electronic mailbox.

(4) The lawyer representing a party to insolvency proceedings need not submit his power of attorney.

(5) The minister responsible for justice shall lay down detailed rules on electronic submission and service of clients' written documents.

## Article 30

In Article 125, a new paragraph (3) shall be added to read as follows:

"(3) The higher court shall decide on the appeal lodged against the decision to institute insolvency proceedings within 15 days and on the second appeal within one month."

## Article 31

Article 132 shall be amended to read as follows:

"Article 132

(Impact of the commencement of insolvency proceedings on initiated enforcement or collateralisation proceedings)

(1) The enforcement or collateralisation proceedings commenced against the insolvent debtor prior to the commencement of compulsory settlement proceedings shall be suspended on the commencement of the compulsory settlement proceedings.

(2) The enforcement or collateralisation proceedings from paragraph (1) of this Article may be continued only on the basis of the decision of the court conducting the compulsory settlement proceedings which is designated by the law as a basis for continued enforcement or collateralisation proceedings.

(3) The commencement of bankruptcy proceedings shall have the following legal consequences for the enforcement or collateralisation proceedings initiated against an insolvent debtor prior to the commencement of the proceedings:

1. if the debtor has not acquired a right to separate settlement prior to the commencement of bankruptcy proceedings, the enforcement or collateralisation proceedings shall be suspended on the commencement of bankruptcy proceedings,

2. if the creditor is subject to an enforcement or collateralisation proceedings prior to the commencement of bankruptcy proceedings and if no property which is the subject matter of the right to separate settlement has been disposed of before the commencement of bankruptcy proceedings, the enforcement or collateralisation proceedings shall be suspended on the commencement of bankruptcy proceedings.

3. if the creditor acquired a right to separate settlement in enforcement proceedings prior to the commencement of bankruptcy proceedings and if the property which the subject matter of the right to separate settlement is disposed of before the commencement of bankruptcy proceedings, the commencement of bankruptcy proceedings shall not have any effect on such enforcement proceedings.

(4) It shall be deemed that, in the course of enforcement proceedings, property has been disposed of pursuant to point 2 or 3 of paragraph (3) of this Article when during the enforcement proceedings prior to the commencement of bankruptcy proceedings

1. in the case of disposal of real property a decision is made to sell the property to the highest bidder,

2. in the sale of book-entry securities on a regulated market a sales agreement is concluded,

3. in the attachment of cash assets of the provider of payment services in respect of the debtor's available cash credit balance with the provider of payment services on the commencement of bankruptcy proceedings, a decision on attachment is delivered to the provider of payment services,

4. in other cases: if the buyer deposits or pays the purchase money.

(5) If in the enforcement proceedings referred to in paragraph (3) of this Article the court of enforcement allows the enforcement in respect of several enforcement instruments or several subjects of enforcement, the legal consequences of bankruptcy proceedings are measured in terms of points 1, 2 or 3 of paragraph (3) of this Article for each enforcement instrument and for each subject of enforcement separately.

(6) If prior to the commencement of bankruptcy proceedings attachment is allowed for cash assets of the provider of payment services and if at the commencement of bankruptcy proceedings the debtor has no cash credit balance or his cash credit balance is lower than the borrower's liability, for the collection of which an attachment is permitted, enforcement shall be suspended on the commencement of bankruptcy proceedings pursuant to point 1 of paragraph (3) of this Article in the part which exceeds the cash credit balance of the debtor in bankruptcy with the provider of payment services.

## Article 32

In Article 142, a new paragraph (2) shall be added to read as follows:

"(2) In accordance with accounting standards, the financial statements referred to in point 1 of paragraph (1) of this Article shall take proper account of any impairments due to the irrecoverability of claims or other impairments of assets and expenses associated with these impairments."

The current paragraphs (2) and (3) shall become paragraphs (3) and (4), respectively.

## Article 33

A new second sentence shall be added in paragraph (1) of Article 151 to read as follows: "Payments permitted under the preceding sentence shall also include payments of liabilities incurred before the commencement of insolvency proceedings if such payment is in conformity with paragraph (1) of Article 34 of this Act and payments of services provided by auditors, lawyers, authorised company valuers and other professionals in connection with the preparation of a complete proposal to commence compulsory settlement proceedings or documents to accompany such proposal."

## Article 34

In paragraph (5) of Article 158, the words "Article 64 or 65 of ZplaP" shall be replaced by the words "rules defined by the act governing payment services".

In paragraph (6), the words "or paragraph (2) of Article 281 of this Act" shall be deleted.

## Article 35

In paragraph (1) of Article 159, the words "Article 21 or 65 of ZplaP" shall be replaced by the words "rules defined by the act governing payment services".

In paragraph (5) of Article 158, the words "the third paragraph of ZplaP" shall be replaced by the words "rules defined by the act governing payment services".

## Article 36

A new Article 164a shall be added after Article 164, to read as follows:

"Article 164a

(Special rules on the settlement of qualified financial contracts)

(1) Neither the commencement of compulsory settlement nor the compulsory settlement approval shall have any effect on the settlement agreement and on qualified financial contracts that are subject to the rules laid down by the settlement agreement.

(2) No legal consequences specified in Articles 161 to 164 of this Act shall arise from the mutual claims between a creditor and an insolvent debtor on the basis of a qualified financial contract which is subject to the rules defined by the settlement agreement.

(3) The rules from sub-section 4.3.3 of this Act shall not apply to a qualified financial contract which is subject to the rules defined by the settlement agreement.

(4) If the settlement of mutual rights and obligations carried out in accordance with the rules defined by the settlement agreement results in a net financial claim towards the insolvent debtor by the other contracting party, this claim shall be subject to the approved compulsory settlement.

#### Article 37

Point 1 of paragraph (1) of Article 180 shall be amended to read as follows:

"1. offer creditors conditions for payment of their claims which are more favourable than those offered in the petition for compulsory settlement included in the previous financial restructuring plan,".

#### Article 38

In Article 181, a new paragraph (3) shall be added to read as follows:

"(3) If the debtor makes changes to the financial restructuring plan under point 1 of paragraph (1) of Article 180 of this Act, the authorised company valuer's report shall also include the valuer's positive or negative opinion on whether the conditions for paying claims, which are offered by the debtor through changes in the financial restructuring plan, are more favourable.

#### Article 39

Article 199 shall be followed by a new Article 199a which shall read as follows:

"Article 199a

(Special rules on increasing initial capital by new contributions in cash)

(1) The rules laid down by this article shall also apply if the condition specified in point 2 of paragraph (2) of Article 186 of this Act is not satisfied.

(2) Notwithstanding paragraph (1) of Article 333 of ZGD-1, the decision to increase the insolvent debtor's initial capital by new contributions may be made within four months of the date of commencement of compulsory settlement by

1. the insolvent debtor's management if the insolvent debtor's financial restructuring plan envisaged the increase of initial capital through cash contributions as a financial restructuring measure or

2. the creditors' committee.

(3) The creditors' committee may also adopt the decision referred to in paragraph (2) of this Article when the insolvent debtor's financial restructuring plan did not envisage initial capital increase through new cash contributions. If the decision referred to in paragraph (2) of this Article is adopted both by the insolvent debtor's management and the creditors' committee, the procedure of initial capital increase shall be carried out in accordance with the creditors' committee decision.

(4) The decision referred to in paragraph (2) of this Article shall include:

1. a decision on the issue amount to be paid per share, which may be higher than the issue amount which is the subject matter of an eventual alternative proposal to compulsory settlement by converting debt into shares,

2. a decision that the right to subscribe and to pay new shares (hereinafter: Person Authorised to Subscribe Shares) should be conferred on:

- each creditor whose claims are included in the lists referred to in points 3 and 4 of paragraph (1) of Article 142 (1) of Article 142 of this Act, and

- each person having the status of insolvent borrower's shareholder on the date of the decision,

3. a decision on the number of the administrator's trust cash account into which payment for the subscribed shares should be made,

4. a decision on the minimum amount of shares to be subscribed and paid for a successful initial capital increase,

5. a decision to increase initial capital by the amount that equals the number of subscribed and paid new shares, multiplied by the nominal or corresponding amount of such shares,

6. a decision that the decision should be effective under the suspensive condition that compulsory settlement is finally approved.

(5) The decision referred to in paragraph (2) of this Article may also provide that, persons other than those specified in paragraph (4) of this Article may also be entitled to subscribe shares. If the decision includes the decision referred to in the preceding paragraph, it shall also include the following information for each person specified in the preceding paragraph:

1. personal name and address or registered company name and head office,

2. the number of shares a person is allowed to subscribe and pay.

(6) Notwithstanding paragraph (1) of Article 372 of ZGD-1, the insolvent debtor's management or the creditors' committee may adopt the decision referred to in paragraph (2) of this Article to reduce initial capital in order to offset the uncovered losses.

(7) A person entitled to subscribe shares shall pay for new shares by transferring, before the expiration of the deadline for subscription and payment of new shares, an amount of money equalling the issue amount of shares specified in point 1 of paragraph (4) of this Article, multiplied by the number of subscribed new shares, to the administrator's trust cash account.

The payment shall have the effect of payment for new shares to an insolvent debtor under the suspense condition of final approval of compulsory settlement.

(8) The procedure of subscription and payment of new shares referred to in paragraph (2) of this Article shall not be successful if the persons entitled to subscribe shares fail to subscribe and pay the minimum amount of shares specified in point 4 of paragraph (4) of this Article within the time limit determined for subscription and payment for new shares.

(9) The process of changes in initial capital referred to in paragraphs (2) and (6) shall be subject, *mutatis mutandis*, to the provisions of the following paragraphs:

1. paragraphs (1) to (3) of Article 192, Article 193, Article 194, points 1 to 3 of paragraph (1) of Article 195, paragraph (1) and point 1 of paragraph (2) of Article 196, Article 197, paragraph (2) of Article 198, and Article 199 of this Act,

2. if the person entitled to registration is a creditor, also: paragraph (6) of Article 195 and point 2 of paragraph (2) of Article 196 of this Act.

(10) When the rules specified in paragraph (1) of this Article are applied, *mutatis mutandis*,

1. the words "the insolvent debtor's general meeting" shall be replaced by the words "the insolvent debtor's management or creditors' committee",

2. the word "creditor" shall be replaced by the word "person entitled to register shares",

3. the words "through transfer of its claims" shall be replaced by the words "by paying the issue amount into the administrator's trust cash account".

(11) If the insolvent debtor envisaged an increase of initial capital through cash contributions in its financial restructuring plan and neither the insolvent debtor's management nor its creditors' committee adopts the decision referred to in paragraph (2) of this Article within four months of the beginning of the compulsory settlement or submits to the court the documents referred to in paragraph (3) of Article 192 of this Act within the time limit specified in paragraph (3) of Article 192 of this Act, the court shall stay the compulsory settlement proceedings and issue a decision to initiate bankruptcy proceedings.

(12) The administrator shall, within three days of receipt of notification of the court's decision to stay the compulsory settlement proceedings, reject or approve the compulsory settlement:

1. if the compulsory settlement proceedings are stayed by final decision or if the proposal for compulsory settlement is rejected by final decision: repay the amounts paid to the persons that paid in new shares pursuant to paragraph (7) of this Article,

2. if compulsory settlement is finally approved: transfer to the insolvent debtor the payments received for new shares pursuant to paragraph (7) of this Article."

Article 40

In paragraph (2) a new point 2 shall be added to read as follows:

"2. if the debtor made changes to its financial restructuring plan and the court's decision to make changes to the financial restructuring plan becomes final on publication of the decision to test the claims: within three business days of the date when the decision by which the court decided to make changes to the financial restructuring plan becomes final,".

The current point 2 shall become point 3.

#### Article 41

Point 1 of paragraph (1) of Article 213 shall be amended to read as follows:

"1. secured claims,".

#### Article 42

In paragraphs (3) and (5) of Article 246, the words "Article 64 or 65 of ZplaP" shall be replaced by the words "rules defined by the act governing payment services".

Paragraph (4) shall be amended to read:

"(4) After the initiation of bankruptcy proceedings the provider of payment services shall not execute any payment to the debit of the insolvent debtor's credit balance on the basis of the decision on enforcement or compulsory collection, except to the amount of the credit balance as at the commencement of bankruptcy proceedings pursuant to point 3 of paragraph (4) of Article 132 of this Act, even if by the time the conditions for the execution of such payment laid down in ZIZ or in the act governing the tax procedure are satisfied, the payment services provider has not received a decision from the enforcement court or tax authority to stay the enforcement procedure under paragraph (6) of Article 132 of this Act."

Paragraph (6) shall be deleted.

#### Article 43

Article 263 shall be amended to read as follows:

"Article 263

(Prohibition to offset claims acquired after the commencement of bankruptcy proceedings)

No claim against the debtor in bankruptcy which arose prior to the commencement of bankruptcy proceedings and which the new creditor acquired through assignment from the previous creditor shall be offset against the debtor's counterclaim against such creditor which occurred prior to the initiation of bankruptcy proceedings."

#### Article 44

A new Article 264a shall be added after Article 264, to read as follows:

"Article 264a

(Special rules on the settlement of qualified financial contracts)

(1) The commencement of bankruptcy proceedings shall have no effect on the agreement on the settlement agreement and on qualified financial contracts that are subject to the rules laid down by the settlement agreement.

(2) No legal consequences specified in Articles 253 to 256 and 264 of this Act shall arise from the mutual claims between a creditor and a debtor in bankruptcy on the basis of a qualified financial contract which is subject to the rules defined by the settlement agreement.

(3) The rules from sub-section 5.3.3 of this Act shall not apply to a qualified financial contract which is subject to the rules defined by the settlement agreement.

(4) If the settlement of mutual rights and obligations pursuant to the rules defined by the settlement agreement results in a net financial claim of the other contracting party towards the debtor in bankruptcy, the other contracting party shall notify this claim during the bankruptcy proceedings and shall be paid from the bankrupt's estate according to the rules of this Act concerning payment of creditors' claims."

Article 45

In Article 265, a new paragraph (4) shall be added, to read as follows:

"(4) The creditor shall, within three months of the announcement of the commencement of bankruptcy proceedings, notify the administrator of his claim towards the debtor in bankruptcy arising on the basis of an unfulfilled contract; otherwise, he shall be liable to pay costs and damages incurred by the debtor as a result of the creditor's failure to notify."

Article 46

Paragraph (2) of Article 267 shall be amended to read:

"(2) The debtor in bankruptcy may exercise his right to withdraw from the contract within three months subject to the court's approval. The time limit from the first sentence of this paragraph shall commence on the date which is the later of the following dates:

1. the date of the finality of decision to commence bankruptcy proceedings or
2. the date of receipt of the creditor's reports referred to in paragraph (4) of Article 265 of this Act."

Article 47

In paragraph (3) of Article 278, the word "third" shall be followed by the words "or fourth".

Article 48

In paragraph (1) of Article 279, the words "unless otherwise provided for in the first paragraph of Article 280 of this Act" shall be deleted.



Article 49

Article 280 shall be amended to read as follows:

"Article 280

(Rights to separate settlement acquired in enforcement or collateralisation proceedings which do not terminate on commencement of bankruptcy proceedings)

(1) The rules laid down in this Article shall apply to the right to separate settlement acquired in enforcement or collateralisation proceedings that were terminated on the commencement of bankruptcy proceedings under point 2 of paragraph (3) of Article 132 of this Act.

(2) If bankruptcy proceedings involve the testing of claims, the court of enforcement shall, on the basis of a final decision to test the claims, verify *ex officio* whether the debtor notified his claim and the exercise of the right to separate settlement acquired during enforcement or collateralisation proceedings in time and, considering the results of this verification:

1. if the creditor notified his claim and the right to separate settlement:

- stay the enforcement or collateralisation proceedings without invalidating the acts in these proceedings on the basis of which the creditor acquired the right to separate settlement and

- decide that the right to separate settlement acquired in the enforcement or collateralisation proceedings shall remain valid.

2. if the creditor failed to notify his claim and the right to separate settlement: - stay the enforcement or collateralisation proceedings and invalidate the acts in these proceedings on the basis of which the creditor acquired the right to separate settlement.

(3) If bankruptcy proceedings were completed by final decision without distributing the bankrupt's estate to creditors and without testing the claims, the enforcement court shall, acting *ex officio* on the basis of the final decision to terminate bankruptcy proceedings:

1. if the right to separate settlement is acquired during enforcement proceedings: issue a decision to continue enforcement proceedings and to carry out the activities which are required for payment of the creditor's claim from assets that the subject of the right to separate settlement,

2. if the right to separate settlement is acquired during collateralisation proceedings:

- if the insolvent debtor is a legal person: stay the collateralisation proceedings and invalidate the actions in these proceedings on the basis of which the creditor acquired the right to separate settlement,

- if the insolvent debtor is a natural person: stay the collateralisation proceedings.

(4) The sale of assets, which are the subject matter of the right to separate settlement from point 1 of paragraph (2) of this Article, and payment of claims secured by the right to separate settlement shall be effected during bankruptcy proceedings."

#### Article 50

Article 281 shall be amended to read as follows:

"Article 281

(Special rules on the rights to separate settlement acquired in enforcement proceedings not affected by the commencement of bankruptcy proceedings)

(1) If the right to separate settlement is acquired in enforcement proceedings, the course of which is not affected by the commencement of bankruptcy proceedings pursuant to point 3 of paragraph (3) of Article 132 of this Act, a creditor with the right to separate settlement need to not notify such right to separate settlement and claims secured by such right to separate settlement in bankruptcy proceedings but may exercise this right in enforcement proceedings.

(2) Paragraph (1) of this Article shall not apply to the unsecured portion of the claim of the creditor with the right to separate settlement which exceeds the value of the assets that are the subject matter of the right to separate settlement.

#### Article 51

In Article 290, a new paragraph (4) shall be added to read as follows:

"(4) The administrator shall prepare and submit to the tax authority the tax returns for the period following the commencement of bankruptcy proceedings, with the contents and within deadlines specified by the act governing tax procedure and by the act governing taxation"

#### Article 52

The following words shall be added at the end of paragraph (1) of Article 291: "and the act governing taxation".

New paragraphs (4) and (5) shall be added to read as follows:

"(4) Banks, brokerage companies, the central securities clearing corporation, courts of justice, tax administrations and other database administrators shall provide the administrator at his request with all data included in the databases they manage and which are relevant for determining the legal status and financial position of a debtor in bankruptcy and transactions which may have the characteristics of contestable legal acts specified in Article 271 of this Act.

(5) The administrator shall not be liable to pay any fees or other charges for the submission of data referred to in paragraph (4) of this Article.

#### Article 53

Paragraph (6) of Article 296 shall be amended to read as follows:

"(6) Notwithstanding the provision of paragraph (4), no notification of the following shall be required in bankruptcy proceedings:

1. preferential claims referred to in points 4, 5 and 6 of paragraph (1) of Article 21 of this Act; which are considered to be validly notified on the date of occurrence,

2. claims for payment of tax based on the tax return on the date prior to the commencement of bankruptcy proceedings referred to in paragraph (1) of Article 291 of this Act, which are considered to be notified in time on the date of submission of the tax return to the tax authority,

3. claims for payment of tax based on the tax return or the corrected tax return for the period prior to the commencement of bankruptcy proceedings, which was submitted to the tax authority after the commencement of bankruptcy proceedings, and such claims are considered to be notified on the date of submission of the tax return or the corrected tax return to the tax authority and

4. claims for payment of tax for the period prior to the commencement of bankruptcy proceedings, based on the tax authority's decision issued after the commencement of bankruptcy proceedings during the tax procedure initiated prior to the commencement of bankruptcy proceedings, and such claims are considered to be notified in time on the date of service of the decision on the administrator."

#### Article 54

In paragraph (1) of Article 298, the word "unless" shall be followed by the words "in paragraph (1) of Article 298 or".

#### Article 55

Article 304 shall be amended to read as follows:

"Article 304

(legal consequences of recognising a secured claim and the right to separate settlement)

If a secured claim and the right to separate settlement by which this claim is secured are recognised under paragraph (1) of Article 67 in relation to paragraph (1) of Article 303 of this Act, the court shall, in the operative part of its decision to test claims, in addition to the decisions referred to paragraph of (2) Article 69 of this Act, do the following:

1. establish that the claim and the right to separate settlement by which this claim is secured have been recognised and

2. impose on the debtor in bankruptcy the payment of this claim from assets which are the subject matter of the right to separate settlement."

#### Article 56

Article 307 shall be deleted.

#### Article 57

In paragraph (6) of Article 308, the words "point 2 of the first paragraph" shall be deleted.

#### Article 58

In paragraph (2) of Article 323, the words "six months" shall be replaced by the words "one year".

A new paragraph (3) shall be added, to read as follows:

"(3) The administrator may, in agreement with the court, establish a pre-emptive right over the assets which are the subject of the lease."

#### Article 59

Paragraph (2) of Article 325 shall be amended to read:

"(2) The sale of assets in enforcement procedure which is not affected by the commencement of bankruptcy proceedings under point 3 of paragraph (3) of Article 132 of this Act, or in enforcement procedure which the enforcement court continues pursuant to point 1 of paragraph (3) of Article 280 of this Act, or opens by virtue of a final resolution referred to in point 2 of the first paragraph of Article 304 of this Act, shall be subject to the rules which apply in respect of such enforcement procedure."

#### Article 60

In paragraph (5) of Article 341, the figure "10 000" shall be replaced by the figure "50 000".

#### Article 61

At the end of paragraph (4) of Article 342, the words "and for cancellation of the liens from the register of non-possessory liens on property."

#### Article 62

3. Point 3 of paragraph (1) of Article 346 shall be amended to read as follows:

"3. non-market stocks of materials if the total value of individual stocks is less than EUR 15 000 and the following items if the value of individual item is less than EUR 15 000:

- used equipment or machinery,
- merchandise and manufactured goods or
- immovable property."

#### Article 63

In Article 354, new paragraphs (2) and (3) shall be added to read as follows:

"(2) If the administrator outsources the provision of individual services in connection with the performance of his duties in bankruptcy proceedings (e.g. the services of drafting reports, lists of tested claims and distribution plans or consulting services in the performance of his duties as administrator in insolvency proceedings), with the exception of services specified in paragraph (7) of Article 103 of this Act, the fees for the performance of these services shall not be paid as a cost of bankruptcy proceedings and shall be paid by the administrator from his own funds.

(3) The cost of services referred to in paragraph (7) of Article 103 of this Act, which are subject to statutory fees or fees established in commercial practice, shall not be paid in the amounts that exceed the amounts of such fees."

#### Article 64

Paragraph (2) of Article 370 shall be amended to read:

"(2) Subsection 5.9.4 shall not apply to the distribution of a special distributive estate for payment of the costs of enforcement procedure and secured claims of the creditor, which is carried out in enforcement procedure, the course of which is not influenced by the commencement of bankruptcy proceedings pursuant to point 3 of paragraph (3) of Article 132 of this Act."

#### Article 65

In the introductory sentence of paragraph (2) of Article 371 and in the first indent of point 2 of paragraph (4), the words "point 2 of the first paragraph" shall be deleted.

#### Article 66

Article 374 shall be amended to read as follows:

"Article 374

(Transfer of assets which cannot be realised)

(1) If the assets which constitute the bankrupt's estate cannot be realised or if their realisation could give rise to disproportionate costs, such assets shall be distributed as follows:

1. in the case referred to in paragraph (2) of Article 373 of this Act: to shareholders in proportion to their holdings,
2. in other cases: to creditors in proportion to their holdings as specified in paragraph (3) of Article 359 of this Act, provided that they agree to accept such assets.

(2) If creditors or shareholders do not agree to accept the assets referred to in paragraph (1) of this Article, the assets, depending on their type, shall be transferred as follows:

1. contaminated property or waste, if the bankrupt's estate is insufficient to cover the costs of ecological rehabilitation, to the Republic of Slovenia,

2. other property to the local community in the area of which the property is situated,
3. other assets, except real property or credit balance, to the Republic of Slovenia, provided that the Republic of Slovenia agrees to accept such assets.

(3) The administrator shall send the invitation to accept the assets referred to in point 3 of paragraph (2) of this Article to the relevant ministry: when assets include movable property, to the ministry responsible for public administration; when assets include financial assets, to the ministry responsible for finance; and when assets include other property rights, to the ministry responsible for the economy. If the Republic of Slovenia refuses to accept the assets, the assets may be transferred to a charitable organisation, subject to acceptance by the latter.

(4) If neither the Republic of Slovenia nor a charitable organisation accept the assets specified in paragraph (2) of this Article:

1. claims and other property rights that are the subject matter of such assets shall cease and
2. the administrator shall ensure that items constituting such assets are handed over as waste materials.

(5) The Republic of Slovenia or a charitable organisation shall notify the administrator of their acceptance of these assets within one month of receipt of the invitation from the administrator; otherwise, it shall be deemed that they refused to accept the assets.

(6) The administrator's invitation to accept the assets shall include for each asset type that is the subject matter of his invitation the following:

1. asset description,
2. the estimated value of assets and
3. reasons for non-realisation of assets in bankruptcy proceedings and whether their realisation would entail disproportionately high costs.

(7) The Republic of Slovenia, the local community or a charitable organisation shall not be liable for obligations of the debtor in bankruptcy in relation to the acceptance of assets referred to in paragraphs (2) or (3) of this Article.

(8) The court shall issue a decision on final distribution of assets among creditors or associates pursuant to paragraph (1) or the transfer of assets pursuant to paragraphs (2) or (3) of this Article.

(9) If the result of final distribution is a credit balance which is so low that its distribution among creditors could give rise to disproportionate costs, the credit balance shall be transferred to the budget of the Republic of Slovenia. The transfer referred to in the preceding paragraph shall be subject, *mutatis mutandis*, to the provisions of paragraph (7) and (8) of this Article.

(10) If the property is transferred to the Republic of Slovenia under the decision on final distribution pursuant to point 1 of paragraph (2) of this Article, the decision shall be served on the Republic of Slovenia, which shall be allowed to appeal this decision.

(11) If the property is transferred to the local community under the decision on final distribution pursuant to point 2 of paragraph (2) of this Article, the decision shall be served on the local community, which shall be allowed to appeal this decision."

#### Article 67

Paragraph (2) of Article 378 shall be amended to read:

"(2) In the case referred to in paragraph (1) of this Article, assets shall be used to cover the costs of bankruptcy proceedings, and any eventual other assets shall be subject to the provisions of paragraphs (2) to (11) of Article 374 of this Act.

Paragraph (3) shall be deleted. The current paragraphs (4) to (6) shall be renumbered as paragraphs (3) to (5).

#### Article 68

In Article 380, new paragraphs (4) to (6) shall be added to read as follows:

"(4) Paragraphs (1) to (3) of this Article shall not apply to the debtor in bankruptcy's claim for overpaid tax amounts established after the closure of bankruptcy proceedings.

(5) If the debtor in bankruptcy is entitled to a refund of overpaid tax according to the value added tax return for the tax period ending on the date prior to the date of the decision to terminate bankruptcy proceedings, the tax authority shall credit the amount to be refunded to the deposit account of the court that conducted the bankruptcy proceedings and notify the court thereof within three days of transfer.

(6) Within eight days of receipt of the refund referred to in paragraph (5) of this Article, the court shall:

1. in the case referred to in paragraph (9) of Article 374 of this Act: transfer this amount to the Republic of Slovenia,
2. in the case referred to in paragraph (2) of Article 373 of this Act: distribute this amount to the company members in proportion to their holdings set out in the final distribution plan,
3. in other cases: distribute this amount to creditors in proportion to their claims which are taken into consideration in distribution on the basis of the final distribution plan.

#### Article 69

Point 1 of paragraph (2) of Article 383 shall be amended to read as follows:

"1. paragraphs (2) and (3) of Article 233, paragraph (2) of Article 227, point 2 of Article 231, paragraph (3) of Article 232, Article 234, and Articles 236 to 238,".

At the beginning of point 2 of paragraph (2), the words "paragraphs (1) to (3) of Article 290," shall be added.

In the second indent of point 6 of paragraph (2), the words "Article 290 and" shall be deleted.

Paragraph (4) shall be amended to read:

"(4) In personal bankruptcy proceedings, paragraph (1) of Article 239 of this Act shall apply, *mutatis mutandis*, so that the court shall, after having examined the debtor's financial position, have to decide on the debtor's insolvency and decide to initiate bankruptcy proceedings accordingly."

A new paragraph (5) shall be added, which reads as follows:

"(5) In personal bankruptcy proceedings against an entrepreneur or individual, paragraph (4) of Article 290 of this Act shall apply, *mutatis mutandis*, to tax liabilities associated with the insolvent debtor's operations until the commencement of personal bankruptcy proceedings."

#### Article 70

A new point 2 shall be added in paragraph (3) of Article 384 so as to read as follows:

"2. if bankruptcy proceedings are initiated on the basis of the assumption referred to in paragraph (3) of Article 235 of this Act: submit to the court within eight days of receipt of the decision to initiate bankruptcy proceedings,"

The current point 2 shall become point 3.

#### Article 71

Paragraph (1) of Article 387 shall be amended to read as follows:

"(1) On the commencement of personal bankruptcy proceedings against an entrepreneur or sole proprietor, the debtor in bankruptcy's status of entrepreneur or sole proprietor shall cease and, after this date, he shall no longer be bound to pay all compulsory social security contributions as entrepreneur or sole proprietor."

#### Article 72

Paragraph (3) of Article 389 shall be amended as follows:

"(3) Earnings from wages and salaries, wage compensations, compensations for loss or reduction of working capacity, temporary unemployment and payments for work of convicted persons in penal institutions shall be included in bankrupt's estate, except for the amount which is equal to the following:

1. minimum wage level less payment of taxes and compulsory social security contributions and



2. if the debtor in bankruptcy maintains a family member or other person that he is liable to maintain under the law, also the amount of earnings determined for the debtor and his family members or persons that he is obliged maintain, according to the criteria for granting financial social assistance laid down by the Act regulating social welfare."

**Comment [lektor1]:** Is this the Social Welfare Act? I am not sure.

## Article 73

Article 389 shall be followed by new Articles 389a to 389d, which shall read as follows:

### Article 389a

(Conditions for debtor in bankruptcy's operation as an entrepreneur or sole proprietor)

(1) After the commencement of personal bankruptcy proceedings, a debtor in bankruptcy can take up his activity as an entrepreneur or sole proprietor subject to authorisation by the court.

(2) The proposal referred to in paragraph (1) of this Article shall include:

1. a specification of operations to be performed by the debtor in bankruptcy as an entrepreneur or sole proprietor,

2. the anticipated profit/loss and a description of circumstances on the basis of which it can be verified whether there is sufficient likelihood that the debtor in bankruptcy will not operate at a loss,

3. a description of reasons for debtor's insolvency and a description of circumstances of his previous operations that are essential for assessing the impediment from point 2 of Article 6 of this Article.

(3) The debtor in bankruptcy's proposal from paragraph (1) of this Article may also include a request to exempt the machinery, equipment, stocks of materials and his other property in bankruptcy proceedings except real property that is necessary for his operations. In such case, the proposal shall also include the following:

1. a specification of this property,

2. the monthly fee for exemption of assets, which the debtor undertakes to pay into the bankrupt's estate.

(4) The court shall decide on the authorisation to the debtor in bankruptcy to take up his activities as an entrepreneur or sole proprietor and on the exemption of assets on the basis of the opinion of the administrator and of the creditors' committee.

(5) The court shall grant the debtor in bankruptcy permission to take up his activities as an entrepreneur or sole proprietor:

1. if at the same time or earlier it issued a decision to commence the debt write-off proceedings and

2. if in all likelihood in excess of 50 per cent it may be estimated that:

- the debtor in bankruptcy did not bring about his own insolvency and

- the debtor will not operate at a loss.

(6) The court shall allow an exemption for assets if in all likelihood in excess of 50% it may be estimated that:

1. the debtor in bankruptcy will be capable of paying the monthly fee for exemption of assets and

2. that, by considering the monthly fee for exemption of assets, there is no deterioration in the terms of repayment to creditors.

(7) If the court allows an exemption by adopting a decision allowing the creditor in bankruptcy to take up his activities as an entrepreneur or sole proprietor, it shall also

1. decide on which assets should be exempt from the bankrupt's estate and

2. impose on the debtor in bankruptcy the obligation to pay a monthly fee for such exemption.

(8) If the court authorises the debtor in bankruptcy to take up his activities as an entrepreneur, the entry of the latter in the register of entrepreneurs shall not be subject to the last indent of paragraph (2) of Article 74 of ZGD-1.

#### Article 389b

(Special rules on debtor in bankruptcy's operation as an entrepreneur or sole proprietor)

(1) The rules laid down by this Article shall apply when the debtor in bankruptcy takes up his activities as an entrepreneur or sole proprietor pursuant to Article 398 of this Act.

(2) In addition to assets referred to in paragraph (2) of Article 389 of this Act, the following assets shall also be exempt from the bankrupt's estate:

1. assets which the court decides to exempt from the bankrupt's estate in accordance with paragraph (6) of Article 389 of this Act,

2. assets created during the debtor in bankruptcy's operation as an entrepreneur or sole proprietor.

(3) If the debtor in bankruptcy, acting as an entrepreneur or sole proprietor, shows a net profit after taxation in his profit of loss account, which is an integral part of the annual report for a particular financial year, he shall credit an amount which equals the amount of net profit after taxation, less the amount specified in paragraph (3) of Article 389 of this Act, multiplied by the number of months in the period covered by the annual report, to the administrator's trust cash account by the end of April of the following year.

(4) The claim for payment of the amount specified in paragraph (3) of this Article shall be included in the bankrupt's estate and shall be deemed to arise at the end of the financial year for which net profit after taxation is shown on the balance sheet,

(5) The debtor shall not offset his liabilities arising after the commencement of personal bankruptcy proceedings against assets referred to in paragraph (2) of this Article.

(6) The debtor in bankruptcy shall obtain the administrator's approval for each:

1. loan or credit obtained,
2. guarantee or bill surety given,
3. authorisation to establish a right to separate settlement for debtor in bankruptcy's assets.
4. other transactions associated with operations of the debtor in bankruptcy as an entrepreneur or sole proprietor if the court so decides by issuing a decision authorising such operations or a subsequent decision.

(7) The administrator shall supervise the operations of the debtor in bankruptcy as an entrepreneur or sole proprietor and the performance of his obligations set out in Articles 384, 386, 389a, the present article and Article 401 of this Act.

(8) The debtor shall submit to the administrator all information required for supervision under paragraph (7) of this Article and allow him to examine his books of account and documents.

(9) If in the exercise of supervision pursuant to paragraphs (7) of this Article the administrator becomes aware of the reason specified in paragraph (1) of Article 389c of this Act, the administrator shall propose the suspension of operations of the debtor in bankruptcy as an entrepreneur or sole proprietor.

#### Article 389c

(Suspension of debtor in bankruptcy's operation as an entrepreneur or sole proprietor)

(1) At the proposal by the administrator, creditor or creditors' committee, the court shall decide to suspend operations of the debtor in bankruptcy as an entrepreneur or sole proprietor:

1. if the debtor in bankruptcy as an entrepreneur or sole proprietor shows a loss in his profit or loss account which is an integral part of his annual report unless, according to the circumstances, there is a more than 50 per cent certainty that the debtor in bankruptcy's operations will show a profit in the next accounting period.
2. if the debtor in bankruptcy is in breach of his obligations specified in Articles 384, 386, paragraph (5) of Article 389b or Article 401 of this Act,
3. if the debtor in bankruptcy is more than one month behind in payment of the following obligations incurred in his operations as an entrepreneur or sole proprietor in personal bankruptcy proceedings:

- wages and salaries to employees or taxes and contributions that he is liable to deduct from salaries and wages,

- compulsory social security contributions which the debtor is obliged to pay as an entrepreneur or sole proprietor,

- taxes on the basis of tax returns and tax authority decisions for the periods following bankruptcy proceedings or

- liabilities to other creditors with which the debtor in bankruptcy maintains a business relationship as an entrepreneur or sole proprietor in personal bankruptcy proceedings,

4. if the debtor in bankruptcy is behind in payment of the monthly asset exemption fee referred to in point 2 of paragraph (7) of Article 389 or of the amount referred to in paragraph (3) of Article 389b of this Act,

5. if the debtor in bankruptcy deliberately causes his own insolvency.

(2) Paragraphs (2) to (6) of Article 405 of this Act shall apply, *mutatis mutandis*, to the proceedings and the proposal referred to in paragraph (1) of this Article.

(3) If the court decides to suspend the operations of the debtor in bankruptcy as an entrepreneur or sole proprietor:

1. assets of the debtor in bankruptcy, which were exempt from the bankrupt's estate pursuant to paragraph (2) of Article 389b of this Act, shall be included in the bankrupt's estate and

2. eventual outstanding liabilities from such operations shall be paid as an expense of bankruptcy proceedings.

(4) The court shall notify the agency of the finality of the court's decision to suspend the operations of the debtor in bankruptcy as an entrepreneur or sole proprietor within three business days from the date when this decision becomes final.

(5) The agency shall delete, *ex officio*, the entrepreneur or sole proprietor from the register on receipt of the notification referred to in paragraph (4) of this Article.

#### Article 389 d

(Special rules on the write-off of debt in debtor in bankruptcy's operation as an entrepreneur or sole proprietor)

(1) If the court suspends the operations of the debtor in bankruptcy as an entrepreneur or sole proprietor for reasons specified in points 2 or 5 of paragraph (1) of Article 389c of this Act, the court shall stay the debt write-off proceedings and reject the proposal to write off the debt.

(2) If the court issues a debt write-off decision:

1. the obligation to pay the monthly fee for exemption of assets from point 2 of paragraph (7) of Article 389a of this Act shall cease to have effect so that it shall no longer apply to the month following the month in which the decision to write off debts became final,

2. the obligation from paragraph (3) of Article 389b of this Act shall cease to have effect, so that it shall no longer apply to the financial year in which the decision to write off debts became final."

#### Article 74

Paragraph (1) of Article 392 shall be amended to read as follows:

"(1) The testing of claims which are notified once the time limit for notifying claims specified in paragraphs (2), (3) or (4) of Article 59 of this Act has expired, shall be subject, *mutatis mutandis*, to Article 71 of this Act so that, within one month after the expiration of the following periods the administrator shall prepare:

1. the first additional basic list of claims notified in the period between the expiration of the time limit for the notification of claims specified in paragraph (2) of Article 59 of this Act and the end of the first six-month period following the expiration of this time limit,
2. the following additional basic lists of claims notified during each subsequent six-month period."

#### Article 75

In paragraph (2) of Article 398, the text "which shall bear his notarised signature" shall be deleted.

A new paragraph (3) shall be added, to read as follows:

"(3) The debtor's write-off proposal shall describe the circumstances which are essential for determining the trial period referred to in paragraph (4) of Article 400 of this Act. The proposal shall be accompanied by evidence on the existence of such circumstances."

#### Article 76

Paragraph (5) of Article 400 shall be amended to read as follows:

"(5) The trial period shall not be shorter than two years and not longer than five years following the commencement of debt write-off proceedings."

#### Article 77

In Article 401, a new paragraph (2) shall be added to read as follows:

"(2) The court may, by taking into consideration the circumstances specified in paragraph (4) of Article 400 of this Act, issue a decision to write off the debt or a subsequent decision imposing on the debtor to perform certain activities which are necessary to meet the obligations specified in paragraph (1) of this Article."

#### Article 78

In paragraph (1) of Article 408, the words "ordinary and subordinated" shall be deleted.

#### Article 79

In the introductory sentence of paragraph (1) of Article 426, the words "the court clerk" shall be replaced by the words "judicial assistant".

#### Article 80

In point 1 of paragraph (1) of Article 442, the word "liability" shall be replaced by the word "receivable".

In paragraph (10), the words "shall be barred" shall be replaced by the words "may be made".

#### Article 81

Article 444 shall be followed by Article 444a which shall read as follows:

##### "Article 444a

(Assets of a cancelled legal entity found during enforcement proceedings)

(1) If the assets referred to in paragraph (1) of Article 443 of this Act are found in the course of enforcement proceedings initiated against a cancelled legal entity before it is deleted from the court register, the enforcement court shall terminate the enforcement proceedings and instruct the creditor to propose the commencement of bankruptcy proceedings for the cancelled legal entity's assets within 15 days of receipt of the court's decision.

(2) If the creditor fails to submit a proposal to commence bankruptcy proceedings for the cancelled legal entity's assets within the time limit specified in paragraph (1) of this Article or if the creditor's proposal for commencement of bankruptcy proceedings is rejected, the enforcement court shall:

1. suspend the enforcement proceedings and invalidate the acts performed in these proceedings and
2. notify the court having jurisdiction in bankruptcy proceedings against the cancelled legal entity of such legal entity's assets identified during enforcement proceedings.

(3) the notification from point 2 of paragraph (2) of this Article shall include the information about the assets identified during the course of enforcement proceedings.

(4) The court potentially having jurisdiction in bankruptcy proceedings against a cancelled legal entity shall, within eight days of receipt of the notification referred to in point 2 of paragraph (2) of this Article, publish an invitation which shall include the following data:

1. the cancelled legal entity's identity data,
2. information about the assets referred to in paragraph (3) of this Article and

3. an invitation to creditors to propose the commencement of bankruptcy proceedings for the identified assets of the cancelled legal person within one month of the publication of the invitation."

#### Article 82

In the heading of Article 483, the words "multilateral offsets" shall be replaced by the words "settlement agreements".

Paragraph (1) shall be amended to read as follows:

"(1) Legal consequences of insolvency proceedings for mutual rights and liabilities of the parties to settlement agreements referred to in paragraph (2) of Article 24a of this Act and to settlement agreements which are not associated with qualified financial contracts if they include the rules from point 2 of paragraph (2) of Article 24 of this Act shall be subject to the general contract law which is applicable to such relationships.

#### Article 83

A new Article 489a shall be added after Article 489, to read as follows:

"Article 489a

(Offences committed by other persons prior to insolvency proceedings)

(1) A fine of EUR 800 to 4 100 shall be imposed on the person which in the period during which the legal person referred to in paragraph (1) of Article 27 of this Act became insolvent, performed the function of that person's management member:

1. if the management failed to perform the acts described in Articles 35 to 29 of this Act on time or

2. if the management acted in contravention of the prohibitions specified in Article 34 of this Act.

(2) Paragraph (5) of Article 42 of this Act shall apply, *mutatis mutandis*, to the exemption from responsibility for an offence committed by a management member referred to in paragraph (1) of this Article.

(3) A fine of EUR 800 to 4 100 shall be imposed on the person which in the period during which the legal person referred to in paragraph (1) of Article 27 of this Act becomes insolvent, performs the function of that person's supervisory or management board's member:

1. if during the last two years prior to the commencement of bankruptcy proceedings following a report on financial restructuring measures the management proposes to the general meeting to adopt a resolution to increase initial capital by contributions and:

- the supervisory or the management board delivers its opinion on the report on financial restructuring measures referred to in paragraph (5) of Article 35 of this Act, according to which the company is not insolvent and no capital increase is deemed necessary and

- the general meeting refuses to adopt a resolution on capital increase,

2. if the supervisory or the management board fail to request the management to report in accordance with paragraphs (2) and (4) of Article 272 of ZGD-1 although the supervisory or the management board should have made such a request pursuant to the rules of corporate finance or corporate governance,

3. if, on the basis of the annual report or other reports, the members of the supervisory or of the management board, acting with due corporate finance and corporate governance diligence, could establish that a legal person has become insolvent but fail to take measures within the scope of their responsibility to ensure the management's timely performance of the acts referred to in Articles 35 to 39 of this Act, or to prevent acts in contravention of the prohibitions referred to in Article 34 of this Act.

(4) Paragraph (3) of Article 43 in connection with paragraph (5) of Article 42 of this Act shall apply, *mutatis mutandis*, to the exemption from responsibility for an offence committed by individual supervisory or management board members referred to in paragraph (3) of this Article."

Article 84

In Article 492, a new paragraph (2) shall be added to read as follows:

"(2) If in the performance of his duties and responsibilities in insolvency proceedings the administrator considers that there is reason to suspect that an offence referred to in Articles 489a, 490 or 491 of this Act has been committed, the administrator shall notify accordingly the ministry responsible for justice and support his notification by evidence available for such judgment."

#### TRANSITIONAL AND FINAL PROVISIONS

Article 85

Statutory rules amended or added under this Act shall apply:

1. to insolvency or debt write-off proceedings initiated prior to the effective date of this Act unless otherwise provided by Articles 86 to 90, Articles 92 or 93 of this Act, and

2. to enforcement or collateralisation proceedings initiated after the enforcement of this Act unless otherwise provided by Articles 90 or 91 of this Act.

Article 86

Article 51 amended by this Act shall begin to apply from 1 September 2010.

(2) On 1 September 2010, the Local Court shall cease to have jurisdiction for conducting subsequent personal bankruptcy proceedings against sole proprietors or consumers and personal bankruptcy proceedings introduced by 31 August 2010.



(3) The local court shall send records on the proceedings referred to in paragraph (2) of this Article to the district court of local jurisdiction without issuing a special decision declaring itself as having no territorial jurisdiction.

#### Article 87

(1) Paragraph (4) of Article 52 and paragraph (3) of Article 125 of this Act added under this Act shall apply to deciding on appeals lodged after 1 January 2011.

(2) The first and second indents of point 2 of paragraph (1) of Article 122 added under this Act shall apply to decisions to be published after the effective date of this Act.

(3) Paragraphs (1), (2) and (4) of Article 123a added under this Act shall apply to applications made by a solicitor as a person authorised by a party to insolvency proceedings after 1 January 2011.

(4) Paragraph (3) of Article 123a added under this Act shall apply the service of written documents after 1 January 2011.

#### Article 88

(1) Paragraph (1) of Article 65, paragraph (4) of Article 68, point 1 of paragraph (4) of Article 69, and paragraph (6) of Article 296 amended under this Act shall apply to insolvency proceedings in which the time limit for notification of claims did not expire prior to the effective date of this Act.

(2) Paragraph (2) of Article 142, Article 164a, point 1 of paragraph (1) of Article 180, paragraph (3) of Article 181, Article 203 and paragraph (1) of Article 213 which are amended or added under this Act shall apply to compulsory settlement proceedings initiated after the effective date of this Act.

(3) Paragraph (4) of Article 14 and Article 383 amended under this Act shall apply to bankruptcy proceedings in which the proposal to commence bankruptcy proceedings is made after the effective date of this Act.

(4) Paragraph (2) of Article 21, point 4 of paragraph (1) of Article 22, paragraph (2) of Article 60, paragraph (4) of Article 61, Article 199a, Article 263, Article 264a, paragraph (4) of Article 265, and paragraph (2) of Article 267 which are amended or added under this Act shall apply to insolvency proceedings initiated after the effective date of this Act.

(5) Paragraph (4) of Article 100 amended under this Act shall apply to appeals against decisions issued by the court after the effective date of this Act.

(6) Article 304 amended under this Act shall apply to the court's decision recognising a secured claim and right to separate settlement on which the court has not yet ruled prior to the effective date of this Act.

#### Article 89

Paragraph (1) of Article 392 amended under this Act shall apply to personal testing the claims in personal bankruptcy proceedings which are notified and on which the administrator has not yet taken his position prior to the effective date of this Act, or claims notified after the effective date of this Act.

#### Article 90

(1) The rules laid down by this Article shall apply provided that, on the effective date of this Act, enforcement or collateralisation proceedings are instituted against the debtor for which bankruptcy proceedings were initiated prior to the effective date of this Act.

(2) If in the course of enforcement or collateralisation proceedings on the effective date of this Act there is the situation referred to in point 1 of paragraph (3) of Article 123 of this Act as amended under this Act, the enforcement court shall, within two months of the effective date of this Act, issue a decision establishing that enforcement proceedings have been suspended.

(3) If in the course of enforcement or collateralisation proceedings prior to the effective date of this Act a creditor acquires the right to separate settlement which already exists on the effective date of this Act, and the Act referred to in paragraph (4) of Article 132 of this Act is not performed on assets that are the subject matter of such right to separate settlement in enforcement proceedings prior to the effective date of this Act, Article 280 of this Act shall apply to the future course of the proceedings.

(4) If in the bankruptcy proceedings referred to in paragraph (3) of this Article the decision to test the claims becomes final prior to the effective date of this Act, the enforcement court shall issue the decision referred to in point 1 or 2 of paragraph (2) or paragraph (3) of Article 280 of the Act as amended by this Act within two months of the effective date of this Act.

(5) If a claim secured by the right to separate settlement referred to in paragraph (3) of this Article is negated in bankruptcy proceedings prior to the effective date of this Act, then, on the effective date of this Act:

1. the provisions of Article 302 of this Act shall begin to apply to claims in civil proceedings instead of Article 307 of this Act and

2. if prior to the effective date of this Act, an action is brought pursuant to Article 307 of this Act, which is invalidated on the effective date of this Act, the action shall be considered to be withdrawn in the part relating to the inadmissibility of enforcement.

(6) If the Act referred to in paragraph (4) of Article 132 of the Act as amended by this Act is already performed in enforcement proceedings prior to the effective date of this Act:

1. it shall be considered that enforcement proceedings continue after the entry into force of this Act, and the provisions of Article 281 and paragraph (2) of Article 325 of the Act as amended by this Act shall apply to the future course of the proceedings and repayment to the creditor and

2. the enforcement court shall issue a decision to continue enforcement proceedings within 15 days of the entry into force of this Act unless the enforcement court issues such a decision prior to the effective date of this Act.

(7) If a claim secured by the right to separate settlement for assets in respect of which the Act referred to in paragraph (4) of Article 132 of the Act as amended by this Act has already been performed is negated in bankruptcy proceedings prior to the effective date of this Act:

1. such claim shall be recognised on the effective date of this Act and
2. the civil court conducting the proceedings following the action referred to in Article 307 of this Act, which shall be invalidated on the entry into force of this Act, shall stay the proceedings.

(8) If, prior to the effective date of this Act, the bankruptcy court issues a decision to test the claims, deciding that the conditions for continuing enforcement proceedings as regards the testing of a claim secured by the right to separate settlement have been satisfied, after the effective date of this Act it shall be deemed that the bankruptcy court ordered the debtor in bankruptcy to make a preferential payment of this claim from assets which are the subject matter of the right to separate settlement in accordance with Article 304 of the Act as amended by this Act.

#### Article 91

Article 444, which is added under this Act, shall apply to enforcement proceedings initiated prior to the effective date of this Act if such proceedings are not completed before this date.

#### Article 92

(1) The administrators' statement on the selection of district court, which is submitted after the effective date of this Act and before 30 November 2010, shall become effective on 1 January 2011.

(2) Administrators licensed to perform the function of administrator on the effective date of this Act shall open a secure mailbox and notify their secure mailbox email address to the ministry responsible for justice.

(3) If an administrator fails to comply with the obligations referred to in paragraph (2) of this Article by 30 November 2010, his appointment as administrator in new cases shall be temporarily suspended.

(4) The temporary suspension of appointment referred to in paragraph (3) of this Article shall become effective on 1 January 2011 and shall terminate 15 days after the date when the administrator complies with his obligation referred to in paragraph (2) of this Article, but not earlier than 1 February 2011.

(5) The ministry responsible for justice shall harmonise the List of Selected Administrators received from individual district courts with the provision of paragraph (5) of Article 111 of this Act as amended by this Act, by taking into account administrators' statements on the selection of a district court, referred to in paragraph (1) of this Article, and the temporary suspension of the appointment of administrators referred to in paragraph (4) of this Article.

(6) Paragraph (3) of Article 116 amended under this Act shall begin to apply to proceedings commenced after 1 January 2011 so that in the first proceedings initiated at individual district courts in 2011 the following administrators shall be appointed:

1. for a group of compulsory settlement and bankruptcy proceedings against a legal person and the first next administrator in the list of administrators referred to in paragraph (6) of this Article, appointed by that district court for the last compulsory settlement or bankruptcy proceedings against a legal person initiated in 2010,

2. for a group of personal bankruptcy and bankruptcy proceedings: the first next administrator in the list of administrators referred to in paragraph (6) of this Article, appointed by that district court for the last personal bankruptcy or bankruptcy proceedings in 2010,

#### Article 93

(1) Paragraph (3) of Article 99 of the Act as amended by this Act shall begin to apply to administrators' regular reporting on the period ended 31 December 2010.

(2) If a procedure to revoke the licence of an administrator is initiated prior to the effective date of this Act, this procedure shall be subject to Article 109 of the Act in the wording valid prior to the effective date of this Act.

(3) Point 3 of paragraph (2) of Article 108 of this Act shall apply to decisions on requests for authorisation to perform the function of administrator filed after the effective date of this Act.

(4) Point 5 of paragraph (2) of Article 108 of the Act as amended by this Act shall apply as of 1 January 2011.

(5) The administrator shall, by 31 December 2010, submit to the ministry responsible for justice proof of compliance with the condition contained in and point 5 of paragraph (2) of Article 108 of the Act as amended by this Act for 2011.

(6) If the administrator fails to comply with paragraph (5) of this Act by 31 December 2010, his authorisation to perform the function of administrator shall be terminated. The minister responsible for justice shall issue a declaratory decision terminating the authorisation pursuant to the first sentence of this paragraph.

(7) Paragraph (7) of Article 103 and paragraphs (2) and (3) of Article 354 added under this Act shall apply to services provided after the effective date of this Act.

#### Article 94

(1) On the effective date of this Act, an Association of Administrators of Slovenia (hereinafter: the Association) shall be established. All administrators holding a valid authorisation on the effective date of this Act shall become its members.

(2) Until the election of the Association's bodies at the Association's first general meeting, the duties and responsibilities of the chairman and the governing board shall be performed by the chairman and the governing board of the Slovenian Society of Administrators.

(3) Within two months of the effective date of this Act, the chairman and the governing board of the Slovenian Society of Administrators shall:

1. prepare draft articles of association,
2. convene the first general meeting of the Association on a date not later than three months after the effective date of this Act and not earlier than within 15 days of the announcement convening the first general meeting of the Association and
3. announce the convening of the first general meeting of the Association in Uradni list Republike Slovenije.

(4) At the first general meeting of the Association, its members shall adopt articles of association and elect members of governing bodies of the Association and disciplinary committees.

(5) The Association's first general meeting shall be subject to the following rules:

1. there will be a quorum when one tenth of the members of Association are present at the meeting,
2. the chairman of the Slovenian Society of Administrators shall chair the general meeting until the election of chairman, and later on the chairman of the Association.
3. a resolution shall be adopted if a majority of members present vote in its favour.

(6) The chairman of the Association shall file a request for the approval of the articles of association within eight days after the first general meeting.

(7) Within 15 days of receipt of the request from paragraph (6) of this Article, the minister responsible for justice shall:

1. decide on the approval of articles of association and
2. appoint the chairman and a member of first instance and second instance disciplinary committees and their deputies.

#### Article 95

(1) Paragraph (4) of Article 41 amended under this Act shall apply to out-of-court settlements reached after the effective date of this Act.

(2) Paragraph (10) of Article 442 of the Act as amended by this Act shall apply to accounts receivable from legal persons cancelled after the effective date of this Act.

#### Article 96

(1) The minister responsible for justice shall issue a regulation referred to in paragraph (5) of the new Article 123a of the Act and harmonised the regulations referred to in paragraph (1) of Article 14 of the Act with this Act within three months of the effective date of this Act.

(2) The Government of the Republic of Slovenia shall harmonise the Decree on the register of non-possessory liens and seized movable property (Uradni list RS, nos. 23/04, 66/06 and 16/08) with this Act.

Article 97

This Act shall enter into force on the fifteenth day following its publication in Uradni list Republike Slovenije.

No. 450-01/10-14/71

Ljubljana, 18 June 2010

EPA 1015-V

National Assembly  
of the Republic of Slovenia  
Vasja Klavora, m.p.  
Vice-President