

**Act on
Bankruptcy, etc.**

1991, No. 21, 26 March

**Part 1
General Provisions**

**Chapter I
Definitions**

Article 1

In this Act, the word "debtor" shall refer to a person, company or institution seeking, and as the case may be, receiving, a licence of financial reorganisation or a licence to seek composition with creditors, or against whom a bankruptcy petition is directed.

In this Act, the noun "bankrupt" denotes a person whose estate has been made subject to bankruptcy proceedings. Where appropriate, and where no other meaning is expressed, the term also denotes companies and institutions that have been made subject to bankruptcy proceedings.

Article 2

In this Act, the term "reference date" shall mean the day when a district court judge receives a petition for a licence of financial reorganisation or a licence to seek composition with creditors, or a bankruptcy petition, or, if an estate at death is made subject to the provisions of this Act on bankruptcy, the death date. If the foregoing can apply to more than one date, the first date shall be the reference date, subject, however, to the provisions of the second to fourth paragraphs.

The date when a district court judge receives a petition for a licence of financial reorganisation shall be the reference date even if the petition is withdrawn or denied, if another such petition, or a petition for a licence to seek composition with creditors, or a bankruptcy petition, is received by the judge within one month from the earlier date. If a debtor has been granted a licence of financial reorganisation, the date when the petition for it was received by the district court judge shall furthermore be the reference date, if the judge receives, within one month from the date when financial reorganisation ends, a petition of the debtor for composition with creditors or a petition for the debtor's bankruptcy.

The date when a district court judge receives a petition for a licence to seek composition with creditors shall be the reference date if the judge receives a new petition to that effect, a petition for a licence of financial reorganisation, or a petition for the debtor's bankruptcy, within one month from when the original petition was withdrawn or denied, the licence to seek composition expired, or a court order was issued confirming a proposed composition.

The day when a district court judge received a bankruptcy petition shall be the reference date even if the petition was withdrawn or denied, if the judge receives a new bankruptcy petition, a petition for a licence of financial reorganisation, or a petition for a licence of composition with creditors, within one month from its reception.

A petition shall be deemed to have been submitted within a period of one month, as provided for in the second to fourth paragraphs, if it is received at the latest on the day of the month bearing the same number as the day of the previous month when the earlier event occurred.

Article 3

In this, Act the noun "relative" shall mean persons related as follows:

1. Spouses and cohabiting persons;
2. Persons directly related by ascent or descent, or in the first sideline, including persons related in this way by adoption or by virtue of a foster arrangement;
3. persons linked by marriage or cohabitation in the manner referred to in subparagraph (2);

4. a person and a company or institution in which that person or his relative owns a significant share;
5. two companies or institutions, if one of them, or a relative of one of them, owns a significant share in the other, or
6. persons, companies and institutions linked in a manner comparable to the relationships referred to in subparagraphs (1)-(5).

Chapter II

Jurisdiction, etc.

Article 4

The provisions of this Act on the right to obtain a licence of financial reorganisation or for composition with creditors, and on bankruptcy, shall only apply to a debtor who is a natural person if the debtor's legal domicile is in Iceland and the debtor is not exempted from the jurisdiction of the courts of Iceland. The provisions of this Act shall however be applied to Icelandic nationals not having their legal domicile in Iceland if they are exempted from the jurisdiction of the courts of other states.

Where the debtor is a company or an institution the provisions of this Act on his right to obtain a licence of financial reorganisation or for composition with creditors, or on bankruptcy, shall only apply if the following conditions are fulfilled:

1. In the case of a registered company, if its registered venue is in Iceland, and
2. in the case of an unregistered company, if its venue is on Iceland according to its articles or as provided for by law, or in the nature of the matter. The same shall apply, as applicable, to institutions.

Article 5

A proprietorship, and a company where the owners have unlimited liability for its obligations, shall only be granted a licence of financial reorganisation or for composition with creditors if the person or persons liable for the obligations of the enterprise or company also are granted such licence. Such an enterprise or company shall not be declared bankrupt unless the person or persons liable for its obligations have already been declared bankrupt.

If a debtor who is a company with a venue in Iceland operates a branch office in Iceland or abroad for which the company has unlimited liability, and receives a licence of financial reorganisation or for composition with creditors, the licence shall automatically also apply to the branch office. In the case of bankruptcy, the same rule shall apply. In Iceland, a branch office shall not be granted an independent licence of financial reorganisation or a licence to seek composition with creditors, and shall not be declared bankrupt except with the company itself.

Unless otherwise provided for by law, a public institution shall not be granted a licence of financial reorganisation or a licence to seek composition with creditors, and shall not be declared bankrupt, if the state, or a municipality, is liable for its obligations. A municipality shall not be declared bankrupt.

Article 6

[Agreements may be concluded with other states]¹⁾ providing that a licence for financial reorganisation or for composition with creditors granted in one contracting state shall be automatically valid in another contracting state, with the legal effects applicable in either state. Likewise, ...¹⁾ agreements may be concluded with other states providing that a bankruptcy declaration in one contracting state shall have effect with respect to the assets and interests of a bankrupt in another contracting state, and such agreements may provide that bankruptcy proceedings shall in part or in whole take place independently in each contracting state in accordance with the law of the respective state or some other specified state.

In the absence of arrangements provided for in an agreement concluded in accordance with the first paragraph, a licence of financial reorganisation or for composition with creditors granted in another state, or a bankruptcy declared in another state, shall not have effect in Iceland. The provisions of this Act on a licence of financial reorganisation or for composition with creditors shall however be applied to a branch of a foreign company which is in operation and has a registered venue in Iceland, if the company is liable for the obligations of the branch and has already received such licence, or a fully comparable licence, in its home state. Such a branch shall only be declared bankrupt in Iceland if the foreign company has already been declared bankrupt.

1) Act No. 92/1991, §108.

Article 7

A petition for a licence of financial reorganisation or for composition with creditors, and a bankruptcy petition, shall be in writing. The petition, or its attachments, shall specify in the clearest possible manner:

1. The purpose of the petition;
2. the debtor's full name and National Registry number; if the debtor is a natural person his legal domicile shall be stated, and his place of stay if different from the legal domicile; whether the debtor is engaged in a business operation, and if so, of what kind; where such business operation takes place and whether it is carried out by an enterprise bearing a separate name; if the debtor is a company, its venue shall be stated, its place of operation, the date of its establishment, its purpose, the nature of its operations and where its operations are carried out; if the debtor is an institution the same information shall be provided;
3. the facts, arguments and legal provisions supporting the petition.

A debtor's petition shall also be accompanied by itemised information on his assets and liabilities.

A petitioner other than a debtor shall state his identity, his National Registry number and his legal domicile, and his petition shall contain a declaration to the effect that he assumes liability for any costs following from the granting of his petition.

The documents on which a petition relies shall be submitted with the petition. If the debtor is a company, a petition shall to the extent possible be accompanied by the company's articles, documents or certificates evidencing its registration, and its most recent financial statement. The same shall apply, as applicable, to a debtor institution or a person conducting a business operation.

Article 8

A petition for a licence of financial reorganisation or for seeking composition with creditors, or a bankruptcy petition, shall be sent to the district court having jurisdiction where the debtor's home venue would be in a civil legal action against him.

If a petition for a licence of financial reorganisation or seeking composition with creditors, or a bankruptcy petition, is submitted in relation to more than one persons, enterprises or companies simultaneously, as envisaged in Article 5, the first paragraph, without the debtors all having the same venue, the petitioner can request the district court judge having jurisdiction where one of the debtors has his venue to handle the cases of them all. If the judge considers that the request should be granted, he shall forward it to the Minister of Justice without delay, and the Minister shall decide finally whether to grant the request. A district court judge shall only handle the case of a debtor having venue outside the area of his jurisdiction when the Minister has permitted this.

If a petition is submitted in an area where it can not be lawfully processed, the district court judge shall forward it and its attachments to the district court of the proper area, with an inscription or certificate stating the date of its reception, which date shall be the reference date, even if the petition was originally not submitted in the proper area.

A petition shall be handled in the area where it was properly submitted, even if the debtor moves his domicile or registered venue to another area before a final decision has been taken on the petition.

Petitions and requests of a debtor or others concerning financial reorganisation shall be submitted to the district court that originally granted a licence of financial reorganisation, even if the debtor may have moved his legal domicile or registered venue after the original petition was granted. This shall also apply in relation to petitions and requests concerning a licence to seek composition with creditors.

Article 9

The district courts shall maintain registries of petitions and requests submitted in accordance with this Act, specifying the decisions taken on them and any legal action conducted as provided for herein, and the Minister of Justice shall, by administrative regulation, issue rules in further detail on such registries.¹⁾

The Minister of Justice shall furthermore, by administrative regulation, issue rules¹⁾ on court records, other registration of information, and the issue of certificates on matters provided for in this Act.

A district court judge shall provide information from the registries kept as provided for in the first paragraph to any party who so requests, whom the judge considers legitimately interested. Any legitimately interested party shall also be given access to petitions and requests, and their attached documents, even if these have not been exhibited in court.

1) Regulation No. 226/1992.

Part 2 Financial reorganisation

Chapter III Licence of financial reorganisation

Article 10

A debtor in significant financial difficulties who desires to attempt reorganisation of his finances with the aid of a professional lawyer or authorised public auditor whom he has engaged for the purpose, may seek a licence of financial reorganisation.

In addition to the information provided for in Article 7, a petition for a licence of financial reorganisation shall include, or be accompanied with, the debtor's detailed clarification of the causes of his financial difficulties, their nature, how he intends to solve the difficulties with the aid of his licence, and the identity of the person he has engaged for his assistance. A debtor who is obliged to keep accounts shall submit with his petition a statement of an authorised public auditor to the effect that his accounts are of the form required by law.

The assistant of a debtor during financial reorganisation shall fulfil the competency requirements of Article 75, the second paragraph, subparagraphs (1)-(4), and neither the assistant nor any relative of his shall have any interests in the debtor's finances. A petition for a licence of financial reorganisation shall be accompanied by the assistant's declaration to the effect that he is willing to undertake the assignment and that he fulfils the said requirements.

Article 11

When a petition for a licence of financial reorganisation has been submitted, the district court judge shall without delay decide when it shall be brought up in court, and a court session for this purpose shall be held as soon as possible. The judge shall notify the debtor of this decision in a manner offering proof, stating that the debtor's appearance in court is required.

When first considering in court a petition for a licence of financial reorganisation with the debtor making an appearance, the judge shall seek information on any matter that may be of significance for deciding whether to grant the petition, which he may deem unclear or inadequately explained. The judge may point any deficiencies out to the debtor and grant him a short period to submit further evidence or provide information on certain points, if he considers this likely to be of value, but such a period shall not be longer than one week and shall be granted only once. The judge may likewise grant the debtor a period in order to engage another person for his assistance if he deems that the person originally engaged does not fulfil the necessary competency requirements.

If the debtor does not make an appearance in court when his petition is filed, it shall be regarded as having been withdrawn.

Article 12

When collection of evidence has been completed with respect to a petition for a licence of financial reorganisation, the district court judge shall, without undue delay, issue a court order stating whether the petition is granted.

A district court judge shall deny a petition for a licence of financial reorganisation if one of the following applies:

1. If a bankruptcy petition has been submitted, which has neither been withdrawn nor denied by a court order before the debtor's petition for a licence of financial reorganisation is received for resolution;
2. if the debtor has previously been granted a licence of financial reorganisation, which expired within three years before the reference date;
3. if the debtor has achieved composition with his creditors within three years before the reference date;

4. if it is clear that the debtor is already under the duty of submitting a petition for his bankruptcy by reason of the provision of Article 64, the second paragraph;
5. if the debtor is not in such financial difficulties as being deemed significant, or if the information submitted is inadequate to assess this;
6. if the debtor's planned measures while financial reorganisation is to be in effect are not deemed permissible, serving its purpose, realistic, or likely to bring about a reorganisation of his finances, or if the information submitted is inadequate to assess this;
7. if there is a reason to suspect that the information submitted by the debtor is wilfully false or misleading;
8. If the debtor's petition or its attachments are deficient in any other respects, or if the person engaged to assist the debtor is not deemed to fulfil the competency requirements necessary to discharge that function, and the debtor has failed to take into account any observations of the district court judge made as envisaged in Article 11, the second paragraph.

If the district court judge deems that the conditions to grant a petition for a licence of financial reorganisation are fulfilled, he shall issue a court order stating that the licence is granted and effective until a specified date and hour within three weeks from the day when the order is issued, when a new court session will be held to consider the matter.

A court order issued by a district court judge as provided for in this Article cannot be appealed against to a higher court.

Article 13

Immediately after a licence of financial reorganisation has been granted, the debtor's assistant shall call his creditors to a meeting to be held in the debtor's venue not later than three days before the court session to be held as decided by the district court judge in accordance with Article 12, the third paragraph, and in any other respects the date and place of the meeting shall be decided on with a view to enabling as many creditors as possible to attend.

The notification to attend shall be in writing, sent to all known creditors of the debtor at a suitable notice in a registered letter delivered by hand, by telegram, or in any other manner offering proof. The notification shall state that the debtor has been granted a licence of financial reorganisation, where and when a meeting of the creditors shall be held, and at what time the district court judge will bring up the matter anew in a court session. Any creditors originally unknown, who become known before the meeting, shall likewise be notified.

Article 14

At a meeting of the creditors called as provided for in Article 13, the debtor's assistant shall exhibit his exhaustive and itemised list of the debtor's assets and liabilities, estimating the value of each asset and stating the computed amount of each liability as at the reference date. The assistant shall, at the meeting, describe in what manner he deems reorganisation of the debtor's finances possible, what measures have already been taken, and whether the debtor will seek an extension of his licence of financial reorganisation. The assistant shall furthermore, during the meeting, seek the opinions of the creditors relating to his plans, and their proposals as regards the measures to be taken.

The assistant shall chair the meeting with the creditors and enter the minutes, also stating clearly the stand taken by the creditors with respect to his plans. Article 79, the fourth and fifth paragraphs, shall apply in this respect as applicable. Any person wanting to attend the meeting, who claims to be a creditor of the debtor and who shows documents evidencing this, or whom the debtor recognizes as his creditor, shall have the right to attend.

Article 15

A debtor who desires continued financial reorganisation shall submit a written petition to that effect at the court session held as decided by the judge as provided for in Article 12, the third paragraph.

A list of assets and liabilities compiled by the debtor's assistant, evidence that a meeting of the creditors was called as provided for in Article 13, the minutes of that meeting, and a written exposition of the assistant describing the measures taken during the period of financial reorganisation and of the measures to be taken if the petition is granted, shall be attached to the petition.

Article 16

Any creditor shall be entitled to attend the court session where a debtor's petition under Article 15 is brought up, and submit a written and reasoned protest against the petition being granted. Such protest shall be handled as provided for in Article 166, if neither the debtor nor his creditor withdraws his claims immediately.

Article 17

When a debtor submits a petition as referred to in Article 15, the first paragraph, financial reorganisation shall be automatically extended until the judge has taken a stand with respect to it by a court order, however no longer than for seven days.

The judge shall deny a petition for an extension of financial reorganisation if one of the following applies:

1. In a situation such as referred to in Article 12, the second paragraph, subparagraphs (4)-(8);
2. if the debtor's assistant is deemed to have neglected his duties, and this can not be amended by engaging a new assistant;
3. if the debtor has, with or without his assistant's approval, taken any measures contrary to the provisions of Articles 19-21;
4. if it is deemed, considering the facts then known and in the light of the general situation, that the attempts to reorganize the debtor's finances during the period of financial reorganisation have not been soundly conceived, or
5. if continued financial reorganisation is deemed not to serve a purpose.

A court order denying extension of financial reorganisation can not be referred to a superior court.

If the judge considers that the requirements are fulfilled for granting a debtor's petition for extended financial reorganisation, he shall provide in his court order that the period of financial reorganisation is extended to a specified date, when a court session shall be held in order to bring up the matter anew within three months from when the petition was brought up in court.

The debtor's assistant shall without delay notify all known creditors of the court order by a registered letter delivered by hand, by telegram, or by any other means offering proof.

Article 18

If financial reorganisation has been extended without the additional period having sufficed for reorganising the debtor's finances, the debtor may submit a petition for yet another extension during a court session held as decided by the judge according to Article 17, the fourth paragraph, if the granting of his petition is deemed significantly likely to lead to success. The debtor's assistant shall first have called and held a meeting with the creditors as provided for in Articles 13 and 14.

The debtor shall submit the petition referred to in the first paragraph in writing. The documents referred to Article 15, the second paragraph, shall be enclosed, and the assistant shall, in his exposition, state the reasons why the period already elapsed has not sufficed for reorganizing the debtor's finances, and how continued financial reorganisation, if granted, can lead to success.

The provisions of Articles 16 and 17 shall govern the procedure when handling a debtor's petition under the first paragraph; however, a judge may never grant a debtor a licence of financial reorganisation for more than six months in total, counted from the court session decided on in a court order issued as provided for in Article 12, the third paragraph. The judge shall not announce a new court session at the end of a period of financial reorganisation which reaches this maximum.

A period of financial reorganisation may be extended more often than twice within the maximum provided for in the third paragraph.

Chapter IV The legal effects of financial reorganisation

Article 19

While financial reorganisation remains in effect, the debtor is barred from making dispositions concerning his property or to assume financial obligations, unless his assistant has approved this in advance in each instance, and provided the measure in question is allowed by Articles 20 or 21.

Notwithstanding the provisions of the first paragraph, the assistant may grant the debtor an advance approval in writing for using funds within specified limits to meet his own and his family's daily needs, or for regular and necessary outlays on which his continued business operation depends. The debtor shall regularly report any measures taken on the basis of such approval to his assistant, who may withdraw the approval at any time.

A debtor's assistant shall, as possible, supervise his client's finances in order to prevent any breaches of the provisions of the first and second paragraphs.

Article 20

Subject to the provisions of the second paragraph, any disposition concerning the assets or financial interests of the debtor is, while a licence of financial reorganisation remains in effect, are only allowed to the extent such a measure is deemed necessary in the day-to-day continuation of the debtor's business, or necessary in order to achieve a reorganisation of his finances, and provided a fair price is paid in return, which is kept in a manner ensuring that the valuables in question remain available and undiminished at the end of the period of financial reorganisation. The debtor is, however, entitled to make dispositions concerning any assets that would be exempted from bankruptcy proceedings if he had been declared bankrupt.

While financial reorganisation remains in effect, any use of the debtor's liquid assets, funds obtained by sale of any assets, or any use of rents, dividends, or revenues of the debtor derived from his business operation, is prohibited for purposes other than the following:

1. Securing the daily necessities of the debtor and his family;
2. making the payments necessary for continuing the debtor's business operation;
3. paying debts to the extent this is allowed by the provisions of Article 21;
4. paying the unavoidable costs arising from the attempts to reorganise the debtor's finances, and
5. defraying the costs of measures deemed necessary in order to forestall significant damage.

Article 21

For the debtor, any payment of liabilities and performance of obligations is prohibited while a licence of financial reorganisation remains in effect, except to the extent it may be certain that the obligation would be fulfilled or the debt paid, considering its rank in the order of preference, in the event of a bankruptcy declaration following the financial reorganisation. However, the payment of a debt or the performance of an obligation is allowed if this is necessary in order to forestall significant damage.

As long as a licence of financial reorganisation remains in effect, the debtor may not assume any liabilities or obligations, or encumber his assets, except for securing daily necessities for himself and his family, or to the extent this may be necessary in order to continue his business operation or to forestall significant damage, and provided it is deemed certain that the measure would benefit his creditors in the event of a bankruptcy declaration following the financial reorganisation.

Article 22

Any contractual or legal provisions providing for consequences of non-performance shall be ineffective with respect to the debtor while a licence of financial reorganisation remains in effect, except that overdue interest, contractual penalties and liquidated damages may be claimed as a result of non-performance without regard to the financial reorganisation.

A debtor may not be declared bankrupt or his assets subjected to attachment, foreclosure or forced sale while a licence of financial reorganisation remains in effect.

While a licence of financial reorganisation remains in effect, public authorities may not apply coercive measures to a debtor on account of his default of any obligations to them. The granting of a petition for a licence of financial reorganisation shall not affect a situation that follows from the prior application of such measures by public authorities.

Chapter V

End of financial reorganisation

Article 23

A licence of financial reorganisation shall automatically expire when its period determined by the district court judge reaches its end, provided a petition for continued financial reorganisation is not submitted, and if the debtor fails to make an appearance at the court session to be held at the end of a period of financial reorganisation previously decided on.

A licence of financial reorganisation is automatically cancelled even if its period has not ended:

1. When the district court judge receives a written notification of the debtor stating that he waives his licence of financial reorganisation;
2. when a court order is issued permitting the debtor to seek composition;
3. when a court order is issued declaring the debtor's bankruptcy upon the debtor's own request;
4. at the time of the debtor's death, or
5. when a committee is lawfully elected for winding up a company having a licence of financial reorganisation.

A licence of financial reorganisation shall be cancelled immediately when a district court judge issues a court order denying a petition for its extension, when a licence of financial reorganisation is withdrawn as provided for in Articles 24-26, or when the period provided for in Article 17, the first paragraph, ends without a court order providing for its continued effect having been issued.

If financial reorganisation ends in the manner referred to in the second or third paragraphs, any meetings with creditors or court sessions previously decided on in the context of the financial reorganisation are automatically cancelled.

The debtor's assistant shall immediately notify the debtor's known creditors in writing of the end of financial reorganisation, specifying when, and why, it ended.

Article 24

If the debtor's assistant deems that he is unable to discharge his duties while a licence of financial reorganisation remains in effect, he shall notify this to the district court judge without delay. His notification shall be made in writing, specifying the reasons underlying the assistant's standpoint. The chief measures taken since a licence of financial reorganisation was granted shall furthermore be stated.

If the debtor considers that his assistant neglects his duties or otherwise performs his duties unduly, he shall notify this in writing to the district court judge. The notification shall contain a clarification of what the debtor may find deserving of criticism in the assistant's work.

A district court judge who receives a notification as referred to in the first or second paragraphs shall without delay summon the debtor and his assistant, in a manner offering proof, to attend a court session, and provide them with an opportunity to express their views on the matter. If the judge considers the matter of such nature that the debtor would be denied a further period of financial reorganisation for that reason, cf. Article 17, the second paragraph, or if the debtor does not make an appearance, the judge shall immediately issue a court order cancelling the licence of financial reorganisation. If not, he shall enter into the record his decision to offer the debtor an opportunity to nominate immediately another assistant, who fulfils the competency requirements made, and when this has been done, the licence of financial reorganisation shall remain unaltered.

A district court judge's decision to cancel financial reorganisation as referred to in the third paragraph shall not be subject to appeal to a superior court.

Article 25

The debtor's assistant shall notify the district court judge in writing if he considers that financial reorganisation will be unsuccessful, if the debtor does not cooperate faithfully with him, or if the debtor has taken any measures contrary to the provisions of Articles 19 to 21.

If the district court judge receives a notification such as referred to in the first paragraph, he shall without delay, in a manner offering proof, summon the debtor and his assistant to attend a court session and offer them an opportunity to express themselves on the matter. If the judge considers that the debtor would be denied continued financial reorganisation by reason of the facts then known, cf. Article 17, the second paragraph, or if the debtor fails to appear in court, the judge shall immediately issue a court order cancelling the licence. If not, the judge shall decide that the licence of financial reorganisation shall remain in effect.

An order of a district court judge cancelling a licence of financial reorganisation as referred to in the second paragraph can not be appealed against to a superior court.

Article 26

A creditor may request cancellation of a debtor's licence of financial reorganisation if the facts are such as obligating a district court judge to deny a petition for continued financial reorganisation, as provided for in Article 17, the second paragraph.

A request as referred to in the first paragraph shall be made in writing. The exact facts in question, and the considerations advocating cancellation of financial reorganisation, shall be specified. Any documents supporting the request shall be attached.

The district court judge may decide, by an entry into the record, to dismiss such a request without further procedure, if he considers it manifestly ill-founded or substantially faulty, or that the period of financial reorganisation will have ended before the request can be resolved. A judge's resolution on this matter can not be appealed against to a superior court.

If a request is not dismissed as provided for in the third paragraph, the district court judge shall without delay, in a manner offering proof, summon the requesting party, the debtor, and the debtor's assistant, to attend a court session on a suitable notice. If the debtor does not make an appearance and the creditor in question so requests, the judge shall issue a court order cancelling the debtor's licence of financial reorganisation. If both parties make an appearance and neither withdraws his requests, the district court judge shall proceed as provided for in Article 166, and subsequently issue a court order cancelling or upholding the licence of financial reorganisation.

An order of a district court judge cancelling a licence of financial reorganisation as referred to in the fourth paragraph can not be appealed against to a superior court.

Part 3

Composition with creditors without a prior declaration of bankruptcy

Chapter VI

General provisions on composition with creditors

Article 27

In this Act, composition with creditors shall refer to an agreement on settlement or relinquishment of debts concluded between a debtor and a certain majority of his creditors, which is subsequently confirmed in court. A composition agreement is also binding upon the debtor's other creditors, as provided for herein in further detail.

Article 28

Composition shall not affect any of the following claims against a debtor:

1. Claims originating after a court order has been issued granting a debtor licence to seek composition;
2. claims for performance other than payment of money, which can be performed in substance;
3. claims that would be ranked as provided for in Articles 109, 110 or 112 if the debtor had been declared bankrupt at the date when a court order providing the debtor with a licence to seek composition was issued;
4. claims secured upon the debtor's assets, to the extent the value of the relevant asset covers the claim and the security interest is not cancelled as a result of the composition;
5. claims that could have been settled by set-off had the debtor been declared bankrupt, and
6. any claims particularly exempted from composition under the terms of the composition agreement by reason of their full payment, cf. Article 36, the second paragraph.

A creditor may, by a declaration given when a debtor prepares his petition for a licence of composition, or later, waive his rights provided for in the first paragraph, with the result that a composition agreement applies to his claim. Such a declaration may contain the reservation that the waiver shall only become finally effective if a composition agreement is concluded.

Composition has the effect of cancelling any debts that would be ranked as provided for in Article 114, subparagraphs (1)-(3), and 5, had the debtor been declared bankrupt.

Article 29

The claims against the debtor affected by composition, and not cancelled by composition as provided for in Article 28, are referred to as composition claims.

A composition agreement may provide for total relinquishment of debts, proportional relinquishment, deferred dates of payment, changes in form of payment, or the three last mentioned arrangements jointly.

A composition agreement may not provide for relinquishment in different proportions. Provisions may however be made for relinquishment by a particular creditor or creditors in higher proportions than others with the approval of the relevant creditors themselves, and provisions may also be made for payment of low composition claims by a fixed amount for each, even if this has the effect that those creditors relinquish their claims in a proportion lower than others, cf. Article 36, the second paragraph.

A composition agreement may not provide for different extensions of payment dates, except if the same due date is provided for all composition claims, or if agreed to by the creditor or creditors asked to grant a longer extension than others. The agreement may provide that those who grant a longer extension shall be paid interest as from the date of payment to others, or that they are granted security for the later payment.

A composition agreement may not provide for payment to creditors in different forms. It may however be provided that certain creditors shall receive payment in a form different and of lower value than others with the approval of the relevant creditors themselves. The value of a payment shall be assessed as its market price if sold for ready money immediately paid.

Although one or more creditors may, as envisaged in the third to fifth paragraphs, agree to grant concessions greater than others, or if one or more creditors are, as envisaged in Article 36, the second paragraph, expected to concede less than others, all creditors shall, when votes on agreement are being counted and in any other respects where of significance, be deemed to have granted the general concession provided for in a composition agreement.

Article 30

Irrespective of contractual or legal provisions or other rules, a composition agreement shall have the effect that all the composition claims become automatically due for payment by the debtor when the agreement is concluded, if no specified extension is provided for. The amount of a composition claim shall not be reduced although this may result in its becoming due at a date earlier than if composition had not taken place.

Composition claims in foreign currency shall be converted to Icelandic currency by reference to the registered sales rate in effect on the date of the decision rendered on a licence to seek composition.

The total amount of each composition claim shall be its amount at the date of the court order granting a licence to seek composition, with interest, indexation, foreign currency addition, costs of collection, and any other costs added to the claim at that date. In the absence of a provision to the contrary therein, composition claims shall not bear interest after a composition agreement has been concluded, but in case of default of a composition agreement, overdue interest shall be paid in accordance with the generally applicable rules on any amounts to be paid as provided for in the agreement.

If a creditor possesses more than one composition claims against a debtor, the claims shall be added together and regarded as one single composition claim, without regard to their origin or other facts. If a creditor possessing more than one claim against the debtor has assigned such a claim to another party three months before the reference date or later, the claims, added together, shall also be regarded as one composition claim, but the assignee shall be entitled to a share of the composition claim in proportion to his share. The same procedure shall be applied in the event of any other transfer.

Article 31

Claims shall be deemed composition claims even if they are unknown, or subject to a condition precedent, at the time a composition agreement is concluded.

A dispute as to the validity of a claim shall not prevent it from being regarded a composition claim as finally resolved.

Article 32

The provisions of Chapter XX on rescission of measures in the course of bankruptcy proceedings shall be applicable if a composition agreement is concluded; however, the debtor must file a legal action for rescission within three months from when the agreement was concluded. To the extent the provisions of Chapter XX refer to the date of a bankruptcy declaration, the date when a court order was issued licensing a debtor to seek composition shall take its place in cases involving rescission following the conclusion of a composition agreement.

Subject to the provisions of Article 28, a claim originating in rescission or becoming actual as a result of rescission shall be deemed a composition claim. When composition is being sought, such potential claims shall be regarded as subject to a condition, unless rescission has already taken place.

Article 33

Creditors possessing composition claims against the debtor, who declare their claims when composition is being sought, cf. Article 45, the fourth paragraph, are entitled to vote on a composition proposal, except the following:

1. Creditors who are the debtor's relatives;
2. creditors possessing conditional claims, as long as the condition has not been fulfilled.

Creditors entitled to vote on a composition proposal, cf. the first paragraph, are referred to as voting creditors.

Subject to Article 30, the fourth paragraph, each voting creditor shall have one vote when voting by number. If two or more voting creditors possess a composition claim jointly, they shall exercise one vote jointly, but each shall have an independent right to vote on behalf of his share of the claim.

When voting on a composition proposal by amounts, the total amounts of the claims of all voting creditors shall be added together and each claim's percentage of the aggregate amount determined. Each voting creditor shall exercise a voting right corresponding to his percentage.

Chapter VII

Licence to seek composition

Article 34

A debtor desiring a licence to seek composition shall prepare his petition as provided for in Article 7, but in addition, the following shall be stated in the petition or in an exposition attached to it:

1. The reasons why the debtor seeks composition, stating in particular the causes of his present debt position and of his inability to honour his debts in full, the premises underlying his proposals, and the reasons why he considers himself capable of honouring his proposal;
2. notes to the composition proposal as the debtor may deem needed;
3. a detailed list of the debtor's assets stating their estimated value, and a detailed list of his liabilities, stating their amounts, as at the time when his petition is prepared;
4. whether any measures have been taken that could be subject to rescission if a composition agreement were concluded.

Article 35

In addition to the attachments provided for in Article 7, the following shall be added to a petition for a licence to seek composition with creditors:

1. A composition proposal prepared in accordance with the provisions of Article 36;

2. a written declaration of at least one fourth of the voting creditors, as determined from the enumeration of liabilities in the petition, both by number and by amounts, that they recommend composition on the basis of the debtor's proposal;
3. the debtor's most recent tax return;
4. security for payment of the costs ensuing from the further preparation and conclusion of a composition agreement.

A debtor who has the duty to keep accounts shall furthermore attach his last annual accounts and any end-of-period statements later compiled, and a written opinion of a certified public auditor as to whether the debtor's records fulfil the requirements of law and whether his accounts present a fair picture of his financial situation.

Article 36

The following shall be specified in a composition proposal:

1. To what extent the debtor offers payment of the composition claims, and in what form;
2. the date or dates of payment;
3. whether interest, and if so, at what rate, will be paid on the composition claims from the date a composition agreement is concluded and to the date of payment, if deferred payment is envisaged;
4. whether security, and if so of what kind, will be placed to secure performance of the composition agreement.

A composition proposal may contain a provision to the effect that claims up to a certain amount, which in the absence of such a provision would be counted among composition claims, will be paid in full, provided the amount in question is deemed insignificant with a view to the debtor's financial situation; however, such a provision may only be included if all the composition claims will be paid by the same or higher amount. If the same creditor possesses, or has possessed, more than one claim against the debtor, which have been transferred to another party within the period of time provided for in Article 30, the fourth paragraph, the claims shall be added together in order to ascertain whether a provision of this nature applies to them.

A debtor who wishes some creditors to grant him more concessions than others, cf. Article 29, the third to fifth paragraphs, shall state any such expected concessions clearly in his composition proposal, and state in what aspects they differ from the general terms of the proposal.

Article 37

When a district court judge has received a petition for a licence to seek composition with creditors, he shall without delay decide when it shall be brought up in court, and a court session for this purpose shall be held as soon as possible. The judge shall notify the debtor of his decision in a manner offering proof, stating that the debtor's appearance in court is required.

If the debtor does not make an appearance when his petition is brought up in court, the petition shall be deemed to have been withdrawn.

When bringing the petition up in court for the first time with the debtor making an appearance, the judge shall seek information on any matter which he may deem unclear or inadequately explained, that may be of significance for a decision of whether to grant the petition. The judge may grant the debtor a short period to submit further evidence or provide information on certain points, if he considers this likely to be of value, but such a period shall not be longer than one week and shall generally be granted only once.

When evidence relating to the petition has been collected, the judge shall, without undue delay, issue a court order stating whether a licence to seek composition with creditors is granted.

Article 38

The district court judge shall deny a petition for a licence to seek composition with creditors if one of the following applies:

1. The debtor had previously been granted a licence of financial reorganisation or a licence to seek composition with creditors, which was cancelled within three years before the reference date on account of his improper actions;

2. a composition agreement was confirmed for the debtor within three years from the reference date, or if his petition for confirmation of a composition agreement was denied during the same period for a reason other than faulty preparations;

3 there is a reason to believe that information provided by the debtor is false or misleading;

4. the debtor's petition is defective or lacking the necessary attached documentation, the attachments are flawed, or the security to be placed as provided for in [Article 35]¹⁾, the first paragraph, subparagraph (4), is, in the opinion of the judge, inadequate;

5. there is a reason to doubt seriously that the debtor's composition proposal will be approved, that a composition agreement will be confirmed, or that the debtor will honour the agreement.

Only the debtor can refer an order of a district court judge denying his petition to a superior court. If the superior court grants the petition, the time limits provided for in Chapter VI shall be calculated from the date of the superior court's resolution.

1) Act No. 92/1991, § 108.

Article 39

If the district court judge considers that the conditions for being granted a licence to seek composition with creditors are fulfilled, he shall grant such licence by a court order. Such an order can not be appealed against to a superior court.

When a licence to seek composition with creditors has been granted, the district court judge shall, by an entry into the record, appoint an agent to carry out the preparations for composition. The provisions of Chapter XIII on the competency of trustees in bankruptcy and their rights, duties and dismissal, shall apply to a composition agent as applicable.

Article 40

A licence to seek composition with creditors shall, as from when it is granted and until a composition agreement is concluded or the licence is annulled, have the same effects as a licence of financial reorganisation as provided for in Articles 19-21 and Article 22, the first and third paragraphs, with the exception that the composition agent shall exercise the functions of a debtor's assistant as provided for there.

During the period referred to in the first paragraph, a debtor can only be declared bankrupt upon his own request. During that period the debtor's assets may not be subjected to attachment, foreclosure or forced sale in order to secure payment of or to satisfy any composition claim, any claim that would be cancelled as provided for in Article 28, the third paragraph, if a composition agreement were successfully concluded, or any claim which the debtor offers to pay in full irrespective of a composition agreement, cf. Article 36, the second paragraph.

During the period referred to in the first paragraph the debtor is barred from assigning any of his claims to others, if such assignment would damage an assignee's right to set his claim off against the debtor's claim.

Article 41

A licence to seek composition with creditors shall be cancelled automatically:

1. When the district court judge receives a written notification of the debtor stating that he waives his licence;
2. when a court order is issued declaring the debtor bankrupt upon his own request;
3. upon the debtor's death;
4. when the votes on a composition proposal have been counted as provided for in Article 52, and it has been shown that the proposal did not receive the approval of a sufficient number of voting creditors;
5. when the period referred to in Article 54, the first paragraph, has expired, without the debtor having submitted a petition for confirmation of a composition agreement to the district court judge, or when a debtor withdraws such petition;
6. when a petition for confirmation of a composition agreement has been finally denied, cf. Article 59.

Article 42

The debtor's composition creditors, and the composition agent, may, in writing, request a district court judge's cancellation of a licence to seek composition with creditors, if:

1. So many voting creditors provide declarations in writing expressing their opposition to a composition proposal as to render it certain that the proposal will not be approved;
2. the debtor has taken any measures which are prohibited for him by Article 40, the first paragraph, or if the debtor otherwise fails to observe the duties following from his licence, or
3. other facts are already known which can be foreseen to prevent confirmation of a composition agreement.

A request made in accordance with the first paragraph shall be reasoned and accompanied by documents presenting the evidence on which it is based.

The judge may dismiss a request made in accordance with the first paragraph by an entry into the record and without further procedure, if he considers it manifestly ill-founded or that the request itself or the evidence is substantially defective, or if there are no interests to be protected by a resolution of the request as the time available until a conclusion is obtained as regards the approval of a composition proposal or the confirmation of a composition agreement is too short. A judge's resolution on this matter cannot be appealed against to a superior court.

If a request is not dismissed as referred to in the third paragraph, the district court judge shall immediately, by a method offering proof, summon the requesting party and the debtor to attend a court session at a suitable notice. If the debtor does not make an appearance and the opposite party so requests, the judge shall issue a court order cancelling the debtor's licence. If the debtor makes an appearance and the request is challenged, the judge shall proceed as provided for in Article 167. The judge shall resolve the request by a court order.

A debtor may appeal against a district court judge's cancellation of a petition for a licence to seek composition with creditors to a superior court within twenty-four hours from when the court order is issued. If appeal has not been lodged by the end of this period the licence is cancelled, but if appeal has been lodged the licence shall remain in effect until the superior court has resolved the matter. A superior court's cancellation of such licence shall enter into effect immediately. In any other respects the general provisions of the fourth paragraph concerning appeal against an order of the district court shall apply.

Chapter VIII

Preparations for composition

Article 43

The composition agent shall, immediately following his appointment, inspect the debtor's financial situation as possible in order to ascertain the correctness of the information provided by the debtor when he obtained his composition licence, and to discover any facts that may be of significance for a resolution of whether a composition agreement will be confirmed. He shall also take any measures necessary for commencing his control and supervision of the debtor's finances. The debtor has the duty of providing the composition agent with any information concerning his finances, and access to any relevant documents. They furthermore have the duty of providing the composition agent with any information they would be obliged to provide to a trustee had the debtor been declared bankrupt. A composition agent is empowered to employ the recourses provided for in Articles 81 and 82.

In the course of composition negotiations, the composition agent shall particularly keep in view the possibility of any events occurring that cause, or may cause, cancellation of the debtor's licence to seek composition.

Article 44

The composition agent shall, immediately following his appointment, issue and have published two times in the Law and Ministerial Gazette a notice to creditors, calling upon the debtor's creditors who consider themselves in possession of composition claims, to declare them to the composition agent within four weeks from when the notice is first published. The notice shall state the debtor's name, his National Registry number, his address, the fact that he has been granted a licence to seek composition with creditors by a court decision rendered at the relevant date, and to whom any claims shall be addressed. The place and time of a meeting of voting creditors for voting on the debtor's composition proposal shall furthermore be stated in the notice.

In addition to issuing a notice to creditors as provided for in the first paragraph, the composition agent shall send all the debtor's known composition creditors a notification by registered letter or other equally reliable means, providing the same information as stated in the published notice. A copy of the debtor's composition proposal shall accompany the notification.

Article 45

A creditor shall prepare his statement of claim in the same manner as in the case of bankruptcy, cf. Article 117, the second and third paragraphs.

A statement of claim to the composition agent shall sever the effects of statutes of limitation with respect to the debtor.

In the course of composition preparations, a failure to submit a statement of claim within the period granted for submitting such a statement shall not have the effect of cancelling the claim.

The right to vote on the debtor's composition proposal shall be restricted to the voting creditors who have stated their claims to the composition agent within the period granted for this purpose.

Article 46

When the period for submitting a statement of claim has expired, the composition agent shall prepare a list of the composition claims received within that period, to which a right to vote applies. The following shall be stated in the list:

1. The name of each creditor, and the time when his statement of claim was received;
2. The amount of each claim as stated, however calculated taking into account the provisions of Article 28, the third paragraph, and Article 30, the second and third paragraphs, as applicable;
3. The voting rights applying to each claim, both as regards number of creditors and the amounts claimed.

If a claim has been stated to the composition agent, which he does not consider a composition claim, or by a creditor which he does not consider a voting creditor, the claim shall not be included on the list prepared as provided for in the first paragraph. The composition agent shall notify the relevant creditor of his opinion in a manner offering proof at least three days before a meeting is held for voting on the debtor's proposal.

The debtor shall be offered an opportunity to inspect the list prepared in accordance with the first paragraph, and the statements of claims with their attached documents, a suitable time before a meeting is held for voting on his proposal.

Article 47

The debtor may make changes to his composition proposal after he has been granted a licence to seek composition and until voting on his proposal has been finally concluded. A proposal that has been changed in the debtor's favour shall however only be subjected to voting in its new form if the number of voting creditors required by Article 35, the first paragraph, subparagraph (2), give their approval.

Article 48

A meeting for voting on a debtor's composition proposal shall be held within two weeks from the expiry of the period granted for stating claims. The provisions of Articles 79 and 125 shall apply as applicable as regards the place and time of the meeting, chairmanship, the right to attend and to make proposals, the minutes, and other general rules of procedure, but the composition agent shall perform the functions there committed to the trustee.

At the beginning of a meeting held as provided for in the first paragraph, the composition agent shall explain the following:

1. The debtor's proposal and any changes made to its original content;
2. the results of the agent's examinations performed as provided for in Article 43, the first paragraph, and his opinion as to the fairness of the debtor's proposal for all the interested parties in the light of those results;
3. the chief measures taken concerning the debtor's interests since preparations for composition commenced;

4. the agent's list prepared as provided for in Article 46, the first paragraph, and whether any claims stated are not mentioned there, cf. Article 46, the second paragraph.

The composition agent shall then ask whether anyone challenges the claims stated in his list prepared as provided for in Article 46, the first paragraph, or the determination of their amounts or voting rights, and whether anyone not mentioned on the list claims a right to vote. Voting creditors and the debtor, and any creditors considering that they are wrongly denied a right to vote, are entitled to lodge their protests. In the event of such protests the composition agent shall endeavour to settle any disputes, but even if his efforts are unsuccessful, the meeting shall proceed as provided for in the following.

The composition agent shall then offer those present an opportunity to state their views and observations concerning the debtor's proposal. The composition agent and the debtor shall answer their questions as possible, and voting on the composition proposal shall subsequently take place.

Article 49

A composition proposal shall be deemed approved if supported by the same proportion of votes as the proportion of composition claims to be relinquished according to the proposal, provided this reaches 60 per cent at a minimum, by number of voting creditors as well as amounts. If neither proportional nor total relinquishment is proposed, a composition proposal shall be deemed approved if supported by 60 per cent of all voting creditors by number as well as amounts.

Article 50

Voting creditors may vote on a composition proposal in writing, and such votes shall be taken into account if received by the composition agent not later than when voting is completed, provided no one is in attendance on the relevant creditor's behalf. A vote in writing shall however only be valid if it expresses the stand the voting creditor has taken with respect to the proposal unequivocally and unconditionally, his signature is confirmed by two witnesses, a professional district court or Supreme Court lawyer, or a notary public, and if changes have been made to the debtor's proposal as originally made, there shall be no doubt that the vote relates to the proposal as changed.

Voting on a proposal may take place by virtue of a power of attorney, proof of which shall be governed by the generally applicable rules.

The vote of a voting creditor shall be received even if his claim has been challenged. The vote of a person attending the meeting who claims a right to vote in spite of not being mentioned on the list prepared according to Article 46, the first paragraph, shall also be received. Such votes shall be regarded as disputed. If a protest only relates to a part of a voting creditor's claim, his vote shall be twofold, and shall be regarded as a disputed vote to the extent it relates to a disputed part of the claim.

Entries shall be made into the minutes of whether a voting creditor has cast a vote, whether this was done at the meeting or in writing, whether the voting creditor did so himself or by attorney, and how he voted. A distinction shall be made between disputed votes, cf., the third paragraph, and other votes.

Article 51

If neither approval nor rejection can be obtained of a proposal at a meeting held according to Article 48 as a result of insufficient voting participation, the composition agent can, upon the debtor's request, decide to continue voting at a new meeting to be held within two weeks. The continuation meeting need only be convened by announcing it before the original meeting is closed. The meeting shall be held as provided for in Articles 48 and 50, except that decisions can not be challenged there as provided for in Article 48, the third paragraph.

If a voting creditor does not attend a continuation meeting held as provided for in the first paragraph, or does not cast a vote there, his first vote shall remain in effect, provided the composition proposal has not been changed after he cast his vote.

Article 52

When voting is completed at a meeting held according to Articles 48 or 51, its results shall be announced before the meeting is closed.

When votes are counted, the possibility that non-disputed votes would suffice for a resolution even if the disputed votes were also counted, shall first be examined. If so, the voting results are known without any further action.

If disputed votes may resolve the question whether a composition proposal is approved, the composition agent shall make every effort to settle the differences at the meeting. If the differences are thus settled, in part or in whole, the votes shall be counted anew as provided for in the second paragraph.

If resolution is not obtained by the method provided for in the third paragraph, the composition agent shall, as a final resort, count all the approving disputed votes and disregard all other disputed votes. The resolution thus obtained shall be decisive.

Article 53

If the debtor's proposal has not received the approval of a sufficient number of voting creditors, the composition agent shall notify the district court judge of this without delay.

If the debtor's licence for seeking composition is cancelled, either for the reason referred to in the first paragraph or for any other reason, the composition agent shall as soon as possible have an announcement to this effect published in the Law and Ministerial Gazette.

Chapter IX Confirmation of composition

Article 54

If the composition procedure has ended with an approval of the debtor's proposal, the debtor shall submit a written petition for confirmation of the composition agreement to the district court judge within one week from when this conclusion was announced at a meeting, cf. Article 52, the first paragraph.

A petition provided for in the first paragraph shall be accompanied by a statement of the composition agent describing the substance of the debtor's final proposal, the results of the voting on the final proposal, and whether this was determined by any disputed votes. The composition agent shall also, in his statement, state his opinion on matters he considers of significance for assessing whether to grant the debtor's petition. The petition shall furthermore be accompanied by a copy of the list prepared by the composition agent as provided for in Article 46, the first paragraph, and minutes of the meetings held in accordance with Article 48, and, applicable, Article 51.

Article 55

When a district judge has received the petition provided for in Article 54, the first paragraph, he shall as soon as possible decide on a court session for considering the petition. This shall be notified on a notice of at least one week by an announcement issued by the judge and published once in the Law and Ministerial Gazette at the debtor's expense, stating the following

1. That an approval was, by a certain number of votes, achieved for a composition proposal of the debtor, whose name, National Registry number, and address shall be stated;
2. the substance of the proposal;
3. a call to those desiring to protest against confirmation of the composition agreement to appear in court at a particular time and place.

The debtor shall be delivered a copy of the notification to appear at a court session for considering his petition, or sent it in a manner offering proof.

Article 56

If the debtor does not appear in court when his petition for the confirmation of the composition settlement is brought up, the judge shall immediately issue a court order denying his request.

If the debtor makes an appearance and his petition for confirmation of the composition proposal is not challenged, the judge shall receive it for a resolution at once; however, the judge may grant the debtor a short

period for submitting further evidence relating to the petition, if requested. When passing a resolution on the petition the judge shall not consider any other matters than those referred to in Article 57.

If the debtor makes an appearance and his petition for confirmation of a composition agreement is challenged, further procedure shall be governed by the provisions of Article 167.

Article 57

The district judge shall deny the debtor's petition for confirmation of a composition settlement if:

1. The licence to seek composition should have been rejected at the outset according to Article 38, the first paragraph, or if it has already been cancelled according to Article 41;
2. it is known that the debtor has offered a voting creditor a concession in order to determine influence his vote, or has been involved in any other misconduct in such a purpose, or
3. if notifications to creditors, the processing of claims, meetings for considering the composition proposal, or voting on the composition proposal has been so incorrectly managed as having possibly been decisive for the results of the voting.

The judge may also deny the debtor's petition if its preparation suffers from significant flaws which have not been corrected.

Article 58

If requested by any legitimately interested party protesting against the granting of the debtor's petition for confirmation of a composition agreement, the district court judge may also deny the petition, if:

1. the concession to be granted the debtor is much greater than can be considered fair in light of his financial situation;
2. the debtor has damaged his financial situation intentionally or by gross negligence, thereby causing loss for his creditors;
3. significant probability is established that the debtor, or any other party acting on his behalf, has attempted to influence the stand taken by voting creditors with respect to the composition proposal by promising concessions to them;
4. the voting on the composition proposal was decided by one or more disputed votes favouring the proposal, cf. Article 52, the fourth paragraph, and it is made significantly likely that the relevant claim or claims were unsubstantiated or that they should not have given rise to a right to vote;
5. one or more disputed votes not favouring the composition proposal have been disregarded as provided for in Article 52, the fourth paragraph; the proposal would not have been approved had they been included when the votes were counted, and it is made significantly likely that the claims giving rise to the disregarded votes were well founded and that they should have given rise to a right to vote on the proposal;
6. it is made significantly likely that the debtor will not perform his obligations even if the composition agreement is confirmed.

Article 59

A district court judge's order granting a debtor's request for confirmation of a composition agreement can be appealed against to a superior court within one week from when it is issued. If appeal has not been lodged within this period, the district court's conclusion shall become final when the period expires.

The composition agent shall announce the conclusion of a petition for confirmation of a composition agreement in the Law and Ministerial Gazette when the final outcome is known.

Chapter X

The legal effects of a composition agreement

Article 60

A composition agreement shall be regarded as concluded when the debtor's petition for confirmation of the agreement has been granted by a final court resolution.

Having entered into effect, a composition agreement shall be binding upon the creditors and their successors and assigns as regards their composition claims. The settlement of claim in accordance with the agreement shall have the same effect as performance of the original obligation.

A composition agreement shall have the same effect as a settlement in court between a debtor and his creditors as regards the composition claims stated on the list prepared as provided for in Article 46, the first paragraph, to the extent they were not challenged by the debtor.

A composition agreement shall have no effect as regards the right of a creditor to obtain full satisfaction by means of a security which a third party may have provided for performance, or to claim payment in full from a guarantor.

Article 61

If a debtor takes legal action for rescission, as envisaged in Article 33, after his composition agreement has entered into effect, the respondent shall not have a right to set the debtor's claim off against his own claim according to the composition agreement, except to the extent his own claim may already have become due.

Article 62

Until a composition agreement has been honoured in full, it may be voided by judgment in a legal action brought against the debtor by a party in possession of a composition claim:

1. if it is established that the debtor's fraudulent or punishable act contributed to the conclusion of the composition agreement;
2. if the debtor has paid or promised to pay any one creditor more towards his contractual claim than the creditor is entitled to under the composition agreement, or
3. if the debtor is significantly in default of his obligations provided for in the composition agreement.

A composition agreement shall automatically fall out of effect if it has not been honoured in full and the debtor is granted a new licence to seek composition, or if the debtor is declared bankrupt.

Article 63

If a composition settlement falls out of effect as provided for in Article 62, the rights of the debtor's creditors for payment of their composition claims shall be revived, as if no composition agreement had been concluded.

When a composition agreement falls out of effect, any security interests or guaranties extended by a third party for the performance of the composition agreement shall be annulled, provided the agreement has not been voided as provided for in Article 62, the first paragraph, subparagraphs (1) or (2), and the third party was, or should have been, aware of the facts leading to the agreement being voided.

Part 4

Bankruptcy

Chapter XI

Commencement of bankruptcy proceedings

Article 64

A debtor may petition for a declaration of his bankruptcy if he is unable to honour his debts to his creditors in full when they become due, provided it is not deemed likely that his payment difficulties will be over within a short period of time.

A debtor who is obliged to keep accounts has the duty of filing a petition for his bankruptcy if his situation has become such as referred to in the first paragraph.

Article 65

A creditor can petition for a declaration of his debtor's bankruptcy if the debtor has absconded from Iceland or remains otherwise in hiding, presumably by reason of his debts, provided it is deemed likely that a delayed bankruptcy declaration may cause loss to the creditor.

A creditor can also petition for a declaration of his debtor's bankruptcy in each of the following situations, provided the debtor does not establish that he is nevertheless capable of honouring his financial obligations in full when they become due, or will become capable of doing so within a short period of time:

1. if unsuccessful, or only partially successful, attachment or debt enforcement proceedings have taken place against the debtor during the three months immediately preceding the reference date, which can not be reasonably deemed to provide an incorrect indication of his financial situation;
2. the debtor had a licence of financial reorganisation which expired within one month from when the creditor's petition was received by the district court judge;
3. the debtor had a licence to seek composition with creditors which was cancelled as provided for in Articles 41 or 42 within one month from when the creditor's petition was received by the district court judge;
4. if the debtor declares that his financial situation is such as referred to in Article 64, the first paragraph.

A debtor can however not petition for a declaration of the debtor's bankruptcy by reference to the first or second paragraphs:

1. If his claim is adequately secured by a collateral or other similar security interest in the debtor's or a third party's property, or by a guarantee extended by a third party;
2. if a third party offers payment of the claim, or, if the claim has not become due, if a third party offers to secure the claim in a manner deemed adequate.

Subject to the third paragraph, subparagraph (2), the right of a creditor to petition for a bankruptcy declaration is not contingent upon the claim having become due.

Article 66

A petition for a declaration of bankruptcy shall be sent a district court judge, made out as provided for in Article 7. A creditor's request for a declaration of bankruptcy, and its supporting documents, shall be in duplicate.

A bankruptcy petitioner is liable for the costs of processing his petition and of the bankruptcy proceedings, if his petition is granted and the costs can not be paid from the assets of the bankruptcy estate. This shall also apply even if security has not been required of the petitioner as provided for in Article 67, the second paragraph.

If a creditor has submitted a bankruptcy petition and the conditions for a bankruptcy declaration prove not to be fulfilled, the creditor shall compensate the debtor for his financial and non-financial loss, provided the creditor should have been aware that the conditions were not fulfilled or that he did not possess the claim against the debtor on which he relied. Such compensation shall be sought in a civil action in accordance with the generally applicable principles, and can be awarded even if the petition for a bankruptcy declaration has been granted.

Article 67

When a district court judge has received a bankruptcy petition, he shall examine as soon as possible whether the petition, or the case preparation in general, suffers from any defects that obviously lead to the petition being denied in the absence of a request to that effect. If any such defects are found, the district court judge may dismiss the petition at once by an entry into the court record stating the reason. Such a decision shall not be subject to appeal to a superior court, but the petitioner may submit the petition anew, requesting that it be brought up in court and that a court order be issued denying the petition. The district court judge may deny the petition by a court order, without granting others than the petitioner an opportunity to express their views.

If the submitted documentation is not conclusive as regards the question whether the debtor's assets will suffice to pay the costs of the bankruptcy proceedings if the petition is granted, the district court judge shall request security of a definite amount for such costs from the petitioner before considering the petition, if it has not been dismissed as provided for in the first paragraph. The judge shall grant a definite, short period for providing such security and notify the petitioner of this in a manner offering proof, and if the security is not provided within the period granted, the petition shall be regarded as immediately withdrawn. In the event of a dispute relating to the requirement of providing security, or the amount thereof, the party of whom security is required may request that the matter be brought up in court, and a court order resolving the matter. The period for providing security shall

be extended pending resolution, and the judge may resolve the matter without granting others than the party of whom security is required an opportunity to state their views.

When it has become clear that a petition will not be dismissed as provided for in the first paragraph, and when security has been placed, as applicable, as provided for in the second paragraph, the judge shall decide when to bring the petition up in court, which shall be done as soon as possible. If the judge has received more than one petition and both or all fulfil the above requirements without any of them yet having been granted, the judge shall decide on court sessions for bringing each of them up independently. This shall generally be done in the order in which the petitions were received; however, if the debtor has submitted a petition for his bankruptcy, his petition shall be brought up before a creditor's petition.

A bankruptcy petition may be withdrawn until it has been resolved by a court order.

Article 68

If a debtor has submitted a petition for his bankruptcy, the district court judge shall notify him at a reasonable notice, in a manner offering proof, of a court session to consider his petition.

If the debtor does not make an appearance when his petition is brought up in court, his petition shall be regarded as withdrawn.

If the debtor makes an appearance, the judge shall seek his information on any matter that may be of significance as regards his petition, which the judge may deem unclear or inadequately explained. The judge may grant him a short period to submit further information, but such a period shall not be longer than one week and shall generally be granted only once.

Article 69

If a creditor has submitted a petition for his debtor's bankruptcy, the district court judge shall write on the petition when it shall be brought up in court, and a notification to the debtor to appear, which he shall have served the debtor. When served, the debtor or the person served on his behalf shall be handed a copy of the petition and its attachments.

Service as provided for in the first paragraph shall take place on a notice to be specified by the judge, however not shorter than one day. In any other respects the rules governing service of process in civil litigation shall be observed.

Service as provided for in the second paragraph is unnecessary if the debtor makes an appearance and does not protest against the petition being brought up.

A district court judge shall notify the relevant creditor on a notice of at least one day, in a manner offering proof, of a court session where his petition is to be brought up.

Article 70

If a creditor does not appear in court when his petition for his debtor's bankruptcy is brought up, his petition shall be considered withdrawn. If the debtor makes an appearance and requests so, the judge may order the creditor to pay him compensation for his appearance.

If a debtor does not make an appearance when a creditor's petition for his debtor's bankruptcy is brought up in court, the debtor shall, as applicable, be deemed to acknowledge the creditor's assertions.

If both the debtor and a creditor petitioning for his bankruptcy make appearance in court, the judge may grant their common request to defer the proceedings, although the bankruptcy petition has not been challenged. Such periods shall not be granted for more than one month in total.

If the debtor makes an appearance and challenges his creditor's bankruptcy petition, the petition shall be handled as provided for in Article 168.

Article 71

As soon as possible after the petition has been received for a resolution, the district court judge shall, irrespective of whether the petition has been challenged or not, issue a court order stating whether the debtor is declared

bankrupt. The judge shall of his own accord examine whether the legal conditions for a bankruptcy declaration are fulfilled, even if no protest has been made against this.

When a district court judge has granted a bankruptcy petition, appeal to a superior court shall not have the effect of suspending the bankruptcy proceedings. Care shall however be taken that the proceedings does not affect the rights of the parties more than necessary while the matter remains unresolved.

If a bankruptcy petition is first granted by a superior court, the effects which according to the provisions of this Act follow from the issue of a district court judge's order declaring bankruptcy shall come into being when the superior court passes its resolution.

If the provisions of this Part are applied to an estate at death subject to official distribution proceedings, the effects which according to the provisions of this Act follow from the issue of a district court judge's order declaring bankruptcy shall come into being when a court order is issued declaring the estate at death subject to official distribution proceedings.

Chapter XII

The legal effects of bankruptcy

Article 72

When a district court judge issues a court order declaring a debtor's bankruptcy, the bankruptcy estate shall take over any financial interests possessed or enjoyed by the bankrupt at the time the order is issued, subject however to rules of law having a different effect, the nature of the interests in question, or a legal disposition that can not be rescinded in consequence of the bankruptcy. An individual bankrupt person shall however retain any financial interests that can not be affected by debt enforcement or made subject to debt enforcement, except if a provision is made for a different arrangement by statute.

Subject to any rules of law or legal dispositions providing differently, and subject to the nature of the obligations in question, a bankruptcy estate assumes any financial obligations of the bankrupt as from the point in time provided for in the first paragraph.

A bankruptcy estate shall be competent to own and acquire rights, and shall remain competent to bear and assume duties until the bankruptcy proceedings are completed as provided for in this Act.

Article 73

While bankruptcy proceedings are in progress, the bankruptcy estate shall acquire any financial interests that would else have befallen the bankrupt, provided such interests would not have been exempted by Article 72, the first paragraph, if they had been in the bankrupt's possession when the district court judge issued the court order declaring the bankruptcy. This shall however not apply to:

1. Any earnings of the bankrupt while the bankruptcy proceedings are in progress;
2. any inheritance, bequest, devise or donation *inter vivos* or *mortis causa* received or completed while the bankruptcy proceedings are in progress, if a lawful provision to this effect has been made by the decedent, testator or donor;
3. any acquisitions of the bankrupt derived from the value of property to which subparagraphs (1) and (2) apply.

While the bankruptcy proceedings are in progress, the bankruptcy estate assumes any obligations undertaken by the trustee on its behalf, or by any person the trustee may have empowered to obligate the estate.

Article 74

When a decision declaring bankruptcy is rendered, the bankrupt's competency to exercise, with an effect binding upon the bankruptcy estate, any interests that convert to the bankruptcy estate as provided for in Articles 72 and 73, is withdrawn. The bankrupt shall however retain his power to approve deferred distribution of an estate at death for the benefit of the spouse of a person he is entitled to succeed as an heir, and to decide, with a binding effect, not to challenge the provisions of a will providing for annulment or reduction of, or conditions to be imposed upon, inheritance to which he would have been entitled.

When a district court judge renders a decision declaring bankruptcy, the bankrupt loses his power to assume obligations with a binding effect for the bankruptcy estate.

Notwithstanding the provisions of the first and second paragraphs, any person who neither did know nor should have known of the bankruptcy proceedings can acquire rights against the bankruptcy estate by reason of a disposition performed by the bankrupt before the publication of a notice to creditors announcing the bankruptcy.

The provisions of the first to third paragraphs shall not apply if the rules applying to negotiable instruments, official records or other registration have a different effect.

Chapter XIII Trustees in bankruptcy

Article 75

When a district court judge has issued an order declaring bankruptcy, he shall, by an entry into the court record, appoint a trustee in bankruptcy to manage the bankruptcy proceedings. If a bankruptcy petition is first granted by a superior court, the district court judge shall appoint a trustee in bankruptcy as soon as possible after this becomes known to him.

No person shall be appointed to serve as a trustee in bankruptcy unless he declares himself willing to accept the appointment, and

1. has attained the age of 25 years;
2. possesses financial and personal legal competency and retains the power to manage his personal finances and property;
3. is mentally and physically fit to serve the function;
4. has not been proved guilty of punishable conduct deemed condemnable in public opinion or any conduct rendering him unworthy of the trust necessary to serve this function;
5. has passed a final examination in law, and
6. would possess competency as judge in a civil legal action to which the bankrupt or a person possessing a claim against the bankruptcy estate were a party, or if a company or an institution is subject to the bankruptcy proceedings, in a civil legal action to which the directors or employees managing the daily affairs of the company or institution were parties.

If it is deemed obvious that the duties of the trustee will be extensive in scope, the district court judge may appoint two or more trustees, in which case the requirement provided for in the second paragraph, subparagraph 2, may be waived with respect to other trustees than one. The trustees shall then decide how to distribute their duties among themselves.

If a trustee dies before the bankruptcy proceedings are completed, or if a trustee asks to be relieved from his duties or is dismissed by a judge as provided for in Article 76, the judge shall at once appoint another person in his place. In cases where two or more trustees are in charge of a bankruptcy estate and the position of one trustee becomes vacant, the judge may however refrain from appointing another trustee in his place, after having consulted the other trustee or trustees.

If it comes to light after a trustee has been appointed that he lacks competency to discharge a particular function in the course of his duties by reason of the provisions of the second paragraph, subparagraph (6), without this being considered to affect his functions in any other respects, the judge may, upon his request, appoint another competent person to discharge the particular function.

The district court judge may require a trustee to provide security, or to submit proof that he is insured, against liability to a third party incurred when discharging the functions of a trustee, and the judge may grant the trustee a particular period for providing security after he has been appointed.

The decision of a judge to appoint a trustee in bankruptcy can not be appealed against to a superior court.

Article 76

Any person possessing a claim against a bankruptcy estate may, while the bankruptcy proceedings are in progress, submit to the district court judge who appointed the trustee in bankruptcy a written criticism of the trustee's functions. If such criticism is received, or if the judge otherwise acquires knowledge that the trustee

may exercise his functions in an unacceptable manner, he shall summon the trustee and the party expressing the criticism to a meeting for stating their views on the matter. The judge may also summon other persons to attend the meeting.

If the judge considers the criticism deserved, he may offer the trustee an opportunity to correct the matter within a particular period of time. If the trustee does not heed this, or if his conduct was of such nature that the granting of such an opportunity is deemed unjustified, the judge shall immediately issue a court order relieving the trustee of his duties. A district court judge shall likewise relieve the trustee of his duties if he fails to grant security as provided for in Article 75, the fifth paragraph, within the set period, or no longer fulfils the competency requirements provided for in Article 75, the second paragraph.

If the judge does not agree to relieve a trustee of his duties in the manner provided for in the second paragraph, the party criticising the performance of his duties may request the judge to issue a court order resolving whether the trustee shall be relieved. Likewise, a party possessing a claim against the estate who considers that the trustee does not fulfil the requirements of Article 75, the second paragraph, may request the judge to issue a court order resolving whether the trustee shall be relieved of his duties for that reason. Such requests shall be processed as provided for in Article 169.

Article 77

The trustee in bankruptcy shall perform all functions concerning management of the bankruptcy estate, but may obtain assistance and service at the estate's expense for performing particular tasks on his responsibility.

A trustee shall be entitled to a fee for his work, which shall be paid from the assets of the bankruptcy estate or by the party liable for paying the costs of the bankruptcy proceedings as provided for in Article 66, the second paragraph. The trustee may pay to himself any accrued fees from the estate's assets, provided he explains this to a meeting of the creditors and it is viewed as certain that by doing so, he will not infringe the rights of any parties possessing claims of higher rank against the estate.

A person appointed to serve as a trustee in bankruptcy shall be deemed a public functionary while serving as such.

A trustee in bankruptcy shall make compensation, according to the generally applicable rules, for any damage he may cause while discharging his functions.

Article 78

The trustee in bankruptcy shall keep the accounts for the bankruptcy estate and file reports to the authorities regarding its finances and operations as needed.

If the bankruptcy proceedings have not been completed within six months from when the court order declaring the bankruptcy was issued, the trustee shall prepare a statement of the financial situation and management of the bankruptcy estate, and subsequently at the end and the middle of each year until the bankruptcy proceedings have been completed. Any person who has stated a claim which has not been settled may inspect the accounts of the bankruptcy estate, provided the claim has not been rejected. If requested, or if the trustee otherwise deems that there is a particular reason to do so, he may commit compilation or audit of the bankruptcy estate's accounts to a certified public auditor at the expense of the bankruptcy estate.

Article 79

The trustee in bankruptcy shall convene meetings of the creditors as provided for in this Act.

The trustee shall decide the time and place of meetings of the creditors, the period of notice at which they are convened, and, subject to any particular provisions of this Act, the agenda. He shall however endeavour to decide on places and times that may be assumed to suit as many interested parties as possible.

A notification to attend a meeting of the creditors shall state its time and place, and the agenda in their main aspects. Subject to any other provisions of this Act, the trustee may elect to convene a meeting by an advertisement published at a notice of at least one week in the Law and Ministerial Gazette, or by a notification to each and every party entitled to attend, cf. Article 125, the first paragraph. If a meeting is convened in the latter manner, care shall be taken to notify of it in a manner offering proof of whether an interested person received or should have received the notification timely; however, such parties shall alone be responsible for informing the trustee of where they can be reached. If a notification to attend fails to reach one or more

interested parties, the trustee may decide on a postponement, or decide to proceed while reserving any rights of those not notified of the meeting to challenge the proceedings of the meeting later.

The trustee shall chair the proceedings and any voting taking place there, and shall decide in what order matters will be discussed and in what order those in attendance shall speak. The trustee may dismiss any persons without legitimate interests to attend, and any persons in attendance who disturb peace and order.

The trustee shall have the minutes entered, and shall ensure that the minutes are introduced to those in attendance before the meeting is adjourned and that they are given an opportunity to make any observations.

Article 80

The trustee in bankruptcy shall receive any documents of significance for the bankruptcy proceedings and keep them for a while after the proceedings have been concluded, in so far as they have not been submitted in court. The same rules shall apply to the delivery of such documents to the National Archives as to documents submitted in court.

Any person establishing to the trustee that he is legitimately interested may request access to any documents of a bankruptcy estate for inspection, and copies of them at that person's expense, while they remain in the trustee's possession.

Article 81

A bankrupt shall, as summoned by the trustee in bankruptcy, meet the trustee in order to provide the information and documents the trustee may need for the purposes of the bankruptcy proceedings. The board members, auditor, managing director, division managers and other comparable representatives of a bankrupt company or institution, and any persons who have served such functions before its bankruptcy was declared, shall also be subject to this duty. This shall also apply to a bankrupt's relatives.

The trustee may record the statement of a person to whom the provisions of the first paragraph apply, concerning any facts related to the bankruptcy, and may request that person to sign the statement upon honour to confirm that the statement is true to the best of his knowledge, after having been given an opportunity to verify the recorded statement and to make any corrections.

If a person to whom the first paragraph applies does not heed a trustee's request for information and documentation, the trustee may, in writing, request that the person be summoned to court for providing a statement on the matter as a witness. The rules of civil procedure in district court shall apply as applicable to the summoning, the duty to provide testimony, and to the questioning of the witness.

Article 82

Persons in possession of the property of a bankruptcy estate have the duty of providing the trustee in bankruptcy with the information and documents he may request concerning the interests of the bankruptcy estate. This duty shall also apply to public institutions, administrative authorities, [commercial banks, savings banks, and securities institutions]¹⁾ and any others who may be in possession of information concerning the assets and liabilities of a bankruptcy estate by reason of business relations with the bankrupt or for other reasons.

If a person to whom the first paragraph applies declines a trustee's request for information or documentation, the trustee may proceed as provided for in Article 81, the third paragraph.

If the bankrupt, or an officer of a company or institution subject to bankruptcy proceedings, declines to hand the bankruptcy estate's assets over to the trustee, or refuses admission to premises where the estate's assets or documents are reasonably assumed to be found, the trustee may, in writing, request the district court judge to issue a court order ordering the person in question to surrender the assets or provide access to the premises. A judge who has received such request shall immediately summon the trustee and the person in question to court, in a manner offering proof. The judge shall resolve the request by a court order. Any dispute concerning such request shall be resolved as provided for in Article 170.

A court order issued as provided for in the third paragraph may, if necessary, be implemented by means of an enforcement action, without a period for compliance being granted. Appeal against such court order shall not suspend its enforceability.

1) Act No. 32/2000, §7.

Article 83

While the bankruptcy proceedings take place, the trustee in bankruptcy may request a district court order prohibiting the bankrupt from leaving Iceland for a specified period of time, provided his presence is deemed necessary for an examination of the financial affairs of the bankruptcy estate and of the measures taken by the bankrupt prior to the bankruptcy proceedings. In the case of a bankrupt company or institution, the trustee may make such request with respect to a managing director or other person in charge of its daily affairs, irrespective of his title, and with respect to the chairman of the board of the company or institution.

In the event of a request made under the first paragraph, the judge shall summon the trustee and the person against whom the request is directed to court without delay, in a manner offering proof. The judge shall resolve the request in the form of a court order, and in the event of a dispute concerning the request, the proceedings shall be governed by the provisions of Article 70. The judge shall as possible ensure that the prohibition does not remain in effect longer than necessary.

A prohibition ordered by a district court judge as provided for in the second paragraph shall be enforced in the same manner as a travel prohibition ordered as provided for in the Code of Criminal Procedure.¹⁾ Appeal against the order shall not suspend its effect.

Persons to whom the first paragraph applies have the duty of notifying the district court judge of any changes of residence.

1) This sentence was amended by Act No. 88/2008, §234. The amendment will enter into effect 1st January 2009, cf. the Act's §232.

Article 84

If the trustee in bankruptcy becomes aware of any facts in the course of his functions which he deems indicating that the bankrupt or others may be guilty of punishable conduct, he shall notify this to the [National Commissioner of Police].¹⁾ The trustee shall not be required to search for such indications beyond what is necessary for the gathering of information for the purposes of his own work.

1) Act No. 26/1998, §1.

Chapter XIV Initial measures during bankruptcy proceedings

Article 85

The trustee in bankruptcy shall, immediately following his appointment, issue and have published a notice to creditors announcing the bankruptcy, and stating the following:

1. The name of the bankrupt, his or her National Registry number, and, as the case may be, domicile, residence, place of stay, place of business operation, or registered venue;
2. the name and National Registry number of a business enterprise or company, if the bankrupt has had unlimited liability for its obligations;
3. the date of the district court judge's order declaring the bankruptcy, and the bankruptcy reference date;
4. a call upon any creditors and others, who maintain that they have a claim against the bankruptcy estate, to declare their claims to the trustee in bankruptcy by sending or delivering their statements of claim to a certain place within the period determined for that purpose as provided for in the second paragraph;
5. the place and time of a meeting of the creditors held in the purpose of considering the declared claims, which shall be held not later than one month after the period for stating claims has expired;

The period for stating claims shall generally be two months, but in exceptional circumstances the trustee may decide on a period of three to six whole months. Irrespective of its duration, the period for stating claims shall start when the notice to creditors is published for the first time, and this shall be clearly stated in the notice.

In his notice to creditors, the trustee may provide that any creditors who have stated their claims during the bankrupt's preceding composition efforts need not state them anew, if they do not desire to submit a change to them.

If the trustee has, already when a notice to creditors is issued, decided to hold a meeting of the creditors to consider the interests of the bankruptcy estate, he may convene the meeting in the notice.

A notice to creditors shall be published twice in the Law and Ministerial Gazette.

Article 86

As the trustee in bankruptcy issues a notice to creditors as provided for in Article 85, he may in particular seek information on whether any potential claimant against the bankruptcy estate resides abroad. If this proves to be the case, the trustee may notify the party in question as soon as possible of the bankruptcy, informing him of when the period for stating claims ends, and of the possible effects of a failure to state a claim within that period.

If the trustee considers that some creditors, whose identities are unknown and can not be reached, may reside abroad, he may have a notice published abroad, of the same content as provided for in the first paragraph.

The trustee may have an advertisement of the same content as a notice issued as provided for in the first paragraph published in an Icelandic daily paper, or in some other manner of his choice, if he deems that there is a particular reason to do so.

Article 87

The trustee in bankruptcy shall, immediately following his appointment, seek information on any property and ownership interests belonging to the bankruptcy estate, where they are found, and who is in possession or charge of such interests. The trustee shall without delay take measures to remove any assets from the bankrupt's possession and prevent him from handling them in a manner not permitted, and to reduce the likelihood of anyone acquiring any rights against the bankruptcy estate by virtue of the provisions of Article 74, the third and fourth paragraphs. The trustee shall, as needed, take possession or control of the bankruptcy estate's assets, but shall be free to leave them in possession of any third parties who declare themselves ready to safeguard the assets on their responsibility.

When a trustee has been appointed, he shall immediately take the measures necessary to obtain possession of the bankrupt's business records.

Article 88

The trustee in bankruptcy shall as soon as possible decide how to manage any business operation of the bankruptcy estate, any mutual agreements, and any other important matters demanding immediate attention, and shall take the measures he deems necessary in the interests of the bankruptcy estate. Disposition of the bankruptcy estate's assets and ownership interests shall be governed by the provisions of Chapter XIX.

Chapter XV

Mutual agreements

Article 89

The provisions of this chapter shall not be applied if different arrangements follow from other provisions of law, or from the nature of the legal relationship in question.

Article 90

If the bankrupt has entered into a mutual agreement before the issue of the court order declaring his bankruptcy, but not made his payment, the other party may withhold his payment or, if he has sent the payment, prevent its delivery to the bankruptcy estate until sufficient security is provided for the bankruptcy estate's return payment on the due date. This shall apply even if the other party's payment has already become due.

Article 91

A bankruptcy estate may take over the rights and obligations of the bankrupt under a mutual agreement.

The bankrupt's contracting party may demand the bankruptcy estate's decision within a reasonable time of whether it will exercise its right under the first paragraph.

If an agreement provides for gradual payments by the bankruptcy estate, the other party's claim for payments falling due after the bankruptcy order was issued shall have a priority ranking as provided for in Article 110, subparagraph (3).

Article 92

If the date has arrived on which the bankrupt's contracting party may lawfully perform his obligation, and the bankruptcy estate has exercised its right under Article 91, the first paragraph, the bankruptcy estate shall, if required by the other party, make its payment or, if the due date has not arrived, provide security for payment. If the other party has made his payment he shall have the same right, provided that he would have been able to have the payment returned had the bankruptcy estate not exercised its right.

If the agreement provides for gradual payments by both parties, the security provided by the bankruptcy estate for payments not made shall, as a rule, secure performance of the other party's claims arising first after the bankruptcy order was issued.

If deemed fair considering the other party's interests, the provisions of the first and second paragraphs may be waived. If contractual provisions on security to be provided by a bankruptcy estate are deemed unfair for the estate, they may be annulled in part or in whole, or amended.

Article 93

If the bankruptcy estate does not exercise its right under Article 91, the first paragraph, or does not provide security within reasonable time, the other party may terminate the agreement. The same shall apply when the other party would have been entitled to rescission had the bankruptcy not occurred.

If the other party has made a payment in part or in whole, that party may only terminate the agreement and claim refund from the bankruptcy estate if this is allowed by the rules governing agreements of the relevant kind.

Article 94

Subject to the provisions of Article 96, the other party may claim compensation from the bankruptcy estate for loss suffered as a result of termination.

Article 95

If the bankruptcy estate does not exercise its right under Article 91, the first paragraph, and receives payment from the other party after the bankruptcy order has been issued, it shall return the payment.

Article 96

The bankruptcy estate may terminate a lease agreement or any agreement establishing a long-term legal relationship, in an ordinary manner or on a reasonable notice, even if the agreement provides for a longer notice of termination or that the agreement is not to be terminated; however, this shall not apply to an agreement that has been officially recorded or registered in a comparable manner by a public authority.

The other party may also terminate an agreement with a bankruptcy estate on an ordinary or reasonable notice, if the bankrupt was not entitled to assign his rights under the agreement to others, and if other provisions of law do not stand in the way.

Under extraordinary circumstances the party terminating an agreement on the basis of the first or second paragraph may be ordered to compensate the other party for any loss leading from the termination. The rank of such a claim against a bankruptcy estate shall be governed by Article 113.

Article 97

If the bankrupt has leased real property for his business activities and the bankruptcy estate is, when the bankruptcy order has been issued, unable to decide whether to exercise its right under Article 91, the first paragraph, the other party shall be entitled to payments of rent from when the order was issued and until the bankruptcy estate has stated its decision. Article 110, subparagraph (3), shall govern the rank of the other party's claim for rent.

Article 98

When a bankruptcy order has been issued, a decision shall be made as to whether the bankruptcy estate shall assume the rights and obligations under any employment agreements made with persons employed in the bankrupt's business activities.

The employees are entitled to wages from when the order was issued and until the decision is taken on behalf of the bankruptcy estate. Article 110, subparagraph (3), shall govern the rank of such claims to wages.

If the bankruptcy proceedings lead to changed circumstances and the urgent interests of an employee recommend this, the employee may however terminate his employment agreement. In this event the employee shall grant the bankruptcy estate a suitable period for seeking another employee in his place, and the bankruptcy estate shall, if requested, provide security for the wages earned while the employee remains in employment for this reason.

Chapter XVI

Claims against a bankruptcy estate

Article 99

All claims against a bankruptcy estate shall automatically become due when the district court judge issues the bankruptcy order, irrespective of any terms laid down previously by agreement or otherwise.

Claims against a bankruptcy estate for non-monetary performance that can not be rendered in substance shall be valued in accordance with the rules applying to such valuation in the course of an enforcement action.

Claims against a bankruptcy estate denominated in foreign currency shall, insofar as they cannot be settled as provided for in Articles 109-111, be converted into Icelandic currency at the registered rate of sale on the day when the bankruptcy order was issued.

Article 100

Any person indebted to a bankruptcy estate may subtract from his debt what the estate may owe him, whatever the nature of the debt or the counterclaim, provided that the creditor acquired the claim before three months remained to the reference date, that he neither knew nor should have known that the bankrupt was insolvent, that he did not acquire the claim in order to set it off against another claim, and provided that the bankruptcy estate's claim against him came into being before the reference date.

The claims referred to in Article 114 shall not be set off against debt except to the extent that the bankruptcy estate's assets are sufficient to cover their payment upon distribution.

In order to protect the right of set-off, negotiable instruments owned by the bankruptcy estate shall not be assigned to others before the period for stating claims against the estate has expired; nor shall this be done later if a counterclaim has been stated. If this is done, the estate shall be liable for compensation, the ranking of which shall be governed by Article 110, subparagraph (3).

Article 101

A conditional claim may be set off against a claim of the bankruptcy estate when the condition is fulfilled. If the bankruptcy estate's claim has been paid before the condition has been fulfilled, the ranking of the creditor's claim for refund shall be governed by Article 110, subparagraph (3). If it still remains unclear at the time of distribution to creditors whether the condition will be fulfilled, an amount shall be set aside to cover refund, as provided for in Article 157, the first paragraph.

Article 102

If the bankruptcy estate pays part of a claim by reason of a collateral or other security, distribution from the estate shall be based solely on the claim's remaining balance.

Article 103

If the bankrupt is liable for the payment of a claim jointly and severally with others, distribution from the bankruptcy estate shall be based on the claim's total amount, even if:

1. another debtor has paid a part of the claim and could have sought recourse from the bankrupt;
2. a part of the claim has been paid from another debtor's estate, or
3. another debtor has paid a part of the claim during the three months immediately preceding the reference date.

If the bankrupt has already refunded another debtor for his payment of a part of the claim, and the refund is not rescinded by the bankruptcy estate, distribution from the estate shall, notwithstanding the provisions of the first paragraph, be based on the claim's remaining balance.

Article 104

A creditor who has received payments from parties other than the bankruptcy estate shall not be paid more in total than the amount of his claim with interest and legal costs. If the payment to be received from the bankruptcy estate would have the effect of exceeding this limit, the difference shall be distributed between the bankruptcy estate's co-debtors as indicated by their legal relationships.

Article 105

If a claim against the bankruptcy estate, and a claim for reimbursement of the same claim, are submitted against the bankruptcy estate, distribution from the bankruptcy estate shall be based on the total amount of both claims. Only the amount exceeding the principal claim shall be paid towards the reimbursement claim. If more than one creditor claims reimbursement, the amount distributed shall be divided among them in the manner provided for in Article 104.

Article 106

If a claim is made against the bankruptcy estate, and a co-debtor's claim for reimbursement is secured by collateral or other security interest in its assets, the amount which a co-debtor may claim on the basis of the security shall be reduced by the amount paid towards the principal claim upon distribution.

If the co-debtor is entitled to set-off, the provisions of the first paragraph shall be applied.

Article 107

A co-debtor who entitled to refund from the bankrupt for his payment of their debt during the three months before the reference date shall have the same right to payment from the bankruptcy estate as their creditor would have had if the co-debtor had not made the payment. The co-debtor shall however not be entitled to any higher amount from the bankruptcy estate than he would have been able to claim from the bankrupt if the bankruptcy had not occurred.

If the debt has been paid by more than one co-debtor, the amount to be paid them upon distribution shall be allocated among them according to the rule provided for in Article 104.

Article 108

The provisions of Articles 104–107 shall be applied when a claim against the bankruptcy estate is secured by collateral or other security interest in the assets of a third party.

Chapter XVII Priority ranking of claims against a bankruptcy estate

Article 109

Assets and interests in the possession of the bankruptcy estate shall be delivered to a third party if the third party proves his entitlement. Any assets and interests which the bankruptcy estate can not lawfully claim shall likewise be handed over to those entitled to them.

If the bankruptcy estate has sold any assets or interests which a third party later establishes as his, that party shall be entitled to the consideration received by the bankruptcy estate, less the cost of safekeeping and sale borne by the estate, as the case may be. Such a claim shall be paid before all other claims against the estate.

Article 110

Subject to Article 111, the third paragraph, the following claims shall, next after the claims referred to in Article 109, have priority in the following order:

1. Costs of a deceased person's funeral if the estate at death is made subject to the provisions of this Part;
2. costs of the bankruptcy proceedings;
3. claims arising against the bankruptcy estate after the court order declaring the bankruptcy was issued due to agreements concluded by the trustee in bankruptcy, or due to loss to others caused by the bankruptcy estate;
4. claims arising after the reference date due to measures taken by a debtor which have been approved by his assistant during financial reorganisation, or by his composition agent, provided that the measures were permitted under Articles 19–21.

Article 111

Next in priority, following the claims referred to in Articles 109 and 110, shall be claims secured by a collateral or other security interest in the bankruptcy estate's assets, to the extent they can be settled by means of the proceeds from sale of the relevant assets and any income derived from them by the bankruptcy estate.

If the claims of two or more creditors are secured by collateral or other security interest in the same asset, their order of priority shall be governed by the ordinary rules. Interests based on an ordinary statutory lien that has not been officially recorded shall, however, yield to the rights of others provided for in this Article.

The claims referred to in Article 110, the second to fourth paragraphs, shall have priority over the claims referred to in this Article only to the extent that they pertain to the assets placed as collateral or providing the security.

Article 112

Next in priority, following the claims referred to in Articles 109-111, shall be, in the correct proportion of each claim:

1. Claims for wages and other remuneration for work in the service of the bankrupt that have become due during the eighteen months immediately preceding the reference date;
2. claims for compensation for termination of an employment agreement during the period specified in subparagraph (1), and after the reference date;
3. claims for vacation payments or vacation wages earned during the period specified in subparagraph (1), and after the reference date;
4. claims for pension fund, sickness fund, and vacation home fund contributions for which the bankrupt was liable according to law or collective labour agreements during the period specified in subparagraph (1), and after the reference date, and trade union dues for which he was liable during the same period;
5. claims for compensation on account of disability or death of a person in the bankrupt's employ who has suffered an accident with such consequences while so employed in the period specified in subparagraph (1), or after the reference date;
6. claims of a spouse, former spouse or child of the bankrupt for pension payments or child support for the period specified in subparagraph (1), and after the reference date, which have been ordered by a public authority or provided for in a legal separation or divorce agreement, and which are not payable by social security insurance or similar arrangements;
7. claims for funds, or claims arising in the management of funds, kept by the bankrupt as a public functionary managing funds independently, and
8. claims for remuneration to a financial reorganisation assistant or composition agent, and for refund of their necessary outlays after the reference date.

The claims referred to in subparagraphs (1)-(6) shall enjoy the priority provided for in this Article also if they are older than provided for there, if legal action has been taken for their collection within six months from their due date and they have been awarded by judgment in the six months immediately preceding the reference date or later.

Neither the bankrupt's relatives nor persons who have served on the board of directors or been responsible for the management of a company or institution subject to bankruptcy proceedings shall, as regards their claims, enjoy the rights provided for in subparagraphs (1)-(3) of the first paragraph.

Article 113

Next in priority, following the claims referred to in Articles 109 to 112, shall be, in the correct proportion of each claim, all other claims, except for those referred to in Article 114.

Article 114

Subordinate to all claims referred to in Articles 109-113 shall be the following claims, in the following order:

1. claims for interest, price level adjustments and exchange rate differences, and claims for the costs of collecting claims pursuant to Article 112 or 113 incurred after the bankruptcy order was issued;

2. claims for civil law sanctions to the extent that they do not entail damages;
3. claims for gifts;
4. claims made subordinate to all other claims by agreement, and
5. claims for interest, price level adjustments and exchange rate differences, and claims for the costs of collecting claims pursuant to subparagraphs (2)-(4) incurred after the bankruptcy order was issued.

Article 115

The holder of a claim assigned or otherwise transferred shall also enjoy the rights against a bankruptcy estate provided for in Articles 109-114.

If a co-debtor of a bankruptcy estate pays their debt, his claim for reimbursement against the bankruptcy estate shall have the same status as the paid claim, however without prejudice to any independent security interests of the co-debtor.

Chapter XVIII Processing of claims against a bankruptcy estate

Article 116

Legal action shall not be brought against a bankruptcy estate in the district court unless expressly permitted by law, except for criminal litigation in which a request is made for criminal sanctions applicable to bankruptcy estates.¹⁾ In such event, the action may be brought in the district where the bankruptcy proceedings take place.

A legal action brought against a bankrupt before the court order declaring the bankruptcy was issued may be continued until adjudication, provided the plaintiff notifies the trustee in bankruptcy of the action. In such event, the bankruptcy estate shall become party to the action if the granting of the plaintiff's requests results in obligations to be fulfilled by the estate, but if not, in the case of a natural person, the action may be continued. If a case against the bankruptcy estate has been received for adjudication on account of the bankrupt's default of appearance after the court order declaring the bankruptcy was issued, the bankruptcy estate may request a reopening of the case by reference to the rules governing lawful absence.

A debt enforcement action, attachment or injunction can not be requested against a bankruptcy estate.

A petition for forced sale of a bankruptcy estate's assets during the first six months after the court order declaring the bankruptcy was issued shall only be granted if made by the trustee in bankruptcy, or submitted with the trustee's approval. After this point in time any party entitled to forced sale without further judgment, settlement in court or enforcement action shall be granted a petition for forced sale of the bankruptcy estate's assets, provided his claim would have been due irrespective of the provision of Article 99, the first paragraph.

1) This sentence was amended by Act No. 88/2008, §234. The amendment will enter into effect 1st January 2009, cf. the Act's §232.

Article 117

A party wishing to uphold a claim against a bankruptcy estate, but unable to pursue it as provided for in Article 116, shall submit a statement of his claim to the trustee in bankruptcy.

A statement of claim shall be in writing, mentioning in clear manner in whose interest it is submitted. It shall state the claim as clearly as possible, including its amount, with interest, in Icelandic *krónur*, and the priority requested for the claim in the order of claims, or, as the case may be, delivery of a specified chattel, determination of particular rights against the estate, release from a particular obligation to the estate, an obligation of the estate to perform, or desist from, some particular act, payment of costs of collection or for representation of interests linked to the claim, etc. Furthermore, the facts on which the claimant bases his right against the bankruptcy estate, as well as any other facts that need to be mentioned for context, shall be stated in a statement of claim.

Any documents supporting a claim shall be enclosed with a statement of claim.

The trustee in bankruptcy shall, if requested, confirm his reception of a statement of claim.

A creditor's petition for a bankruptcy declaration that has been granted shall be deemed an adequate statement of claim against the bankruptcy estate, provided it fulfils the requirements made in the second and third paragraphs.

A statement of claim submitted to a trustee in bankruptcy shall have the same effects as if legal action had been filed in respect of the claim at the point in time when the trustee receives the statement.

Article 118

If a claim against a bankruptcy estate is not stated to the trustee in bankruptcy before the period provided for in Article 85, the second paragraph, is over, it shall, if it can not be pursued as provided for in Article 116, be cancelled with respect to the estate, except if:

1. the claim is stated before a meeting of the creditors is convened for considering a proposal for distribution, and its acceptance is approved by three fourths of the creditors who would not be paid as a result, both by number of creditors and the amounts of their claims;
2. the claimant resides abroad and neither knew nor should have known of the bankruptcy, provided his claim is stated without undue delay and before a meeting of the creditors is convened for considering a proposal for distribution;
3. the claim is a counterclaim against a claim of the bankruptcy estate, and the conditions provided for set-off in of Article 100 are fulfilled;
4. the claim is such as provided for in Article 109;
5. the claim is such as provided for in Article 110, subparagraphs (1)-(3), or any other claim that has come into being after the court order declaring the bankruptcy was issued, provided the claim is stated without undue delay and before a meeting of the creditors is convened for considering a proposal for distribution, or if
6. the claim has been revived as a result of rescission, cf. Article 143, provided it is stated without undue delay and before a meeting of the creditors is convened for considering a proposal for distribution.

Article 119

When the period for stating claims is over, the trustee in bankruptcy shall without delay prepare a list of the submitted claims, stating his independent standpoint as to how each claim shall be recognised. The list shall state the nature of each claim, their amounts, and their requested priority. The trustee is, however, not required to take a stand with respect to a claim if it can be regarded as certain that nothing will be paid towards it upon distribution.

If the trustee in bankruptcy does not recognise a claim in full, in the form it is stated, he shall notify the claimant in question of his position regarding the claim at a notice of at least one week before a creditors' meeting is held to consider the list of claims. The notification shall be sent in a manner offering proof, stating clearly the consequences of failing to challenge the trustee's standpoint at the meeting, cf. Article 120, the third paragraph. Instead of a notification the trustee may however send a copy of the list of claims to the parties in question, stating what otherwise would have been stated in the notification.

The trustee shall make a copy of the list of claims available for inspection at his office for at least one week before the creditors' meeting, by any claimant who may come there. The trustee shall also provide a copy of the list to anyone who has stated a claim against the bankruptcy estate and asks for a copy. He may request a payment to the bankruptcy estate of the cost of its preparation. The bankrupt, and persons in charge of companies or institutions subject to bankruptcy proceedings, shall have the same access to the list of claims, but no others unless the trustee deems that this serves their legitimate interests.

Article 120

Any claimant unwilling to accept the stand taken by the trustee in bankruptcy with respect to recognition of his claim shall state his objections at a meeting of the creditors held to consider the stated claims, or notify of this in a letter to be received by the trustee no later than at that meeting. Likewise, a claimant may challenge the stand taken by the trustee as regards recognition of some other claim, if a conclusion in this respect will affect his own interests.

The trustee in bankruptcy shall exhibit the list of claims and the statements of claim at the creditors' meeting, and any objections he may have received as provided for in the first paragraph. At the meeting, he shall endeavour to the extent possible to provide those in attendance with the explanations they may ask for concerning the nature of each claim, his reasons for the stand taken as regards their recognition, and any objections to them received. The right to attend shall be governed by the provisions of Article 125. If an

objection is raised at the meeting against the trustee's position as regards the recognition of a claim, and both or all the relevant parties, the objectors and those against whom their objections are directed, are present, the trustee shall endeavour to settle the dispute; if unsuccessful, he shall convene the parties in question to a separate meeting for this purpose. If the dispute cannot be settled in this manner, the trustee shall refer the matter to the district court as provided for in Article 171.

To the extent the trustee's standpoint as regards the recognition of a claim is not challenged as provided for in the first paragraph, it shall be regarded as finally approved during the bankruptcy proceedings.

Article 121

If a claim is stated when the period for stating claims is over, but it is not certain that the claim is cancelled for that reason, the trustee in bankruptcy shall as soon as possible form an opinion as to whether, and if so how, the claim is to be recognised. He shall then convene a meeting of the creditors to consider the position he has taken with respect to the claim. The provisions of Article 120 shall apply as regards the right to challenge the stand taken by the trustee, the processing of any objections, and the consequences of failing to object.

Chapter XIX Administration and disposition of a bankruptcy estate's interests

Article 122

Subject to Article 130, the trustee in bankruptcy shall be in charge of the affairs of the bankruptcy estate, and shall alone be competent to make dispositions concerning its interests and to answer for its obligations. The trustee in bankruptcy shall represent the estate in court and conclude agreements and other legal dispositions in its name.

The trustee in bankruptcy shall in particular take care to conclude the bankruptcy proceedings without undue delay, and shall ensure that all the assets and interests of the bankruptcy estate are discovered and disposed of as economically as possible, that its claims and receivables are collected, that none of its interests of potential financial value are lost, and, in general, that any measures necessary to prevent loss are taken. The trustee shall also ensure that any funds of the estate bear interest at a rate as favourable as possible in an account at a commercial bank or savings bank, having regard to how long the funds are likely to be in his care.

Article 123

As soon as possible after his appointment, the trustee in bankruptcy shall take measures for disposing of any assets and interests that are known to be the property of the bankruptcy estate, provided the trustee does not deem that postponement in this respect serves the estate better. If the bankrupt seeks composition under Chapter XXI, the trustee shall however not dispose of any assets or interests in a manner detrimental to his efforts, except if the trustee considers this necessary in order to forestall damage or substantial costs, or if the number of creditors voting against postponing such measures at a meeting is adequate to ensure that composition efforts would not be successful. Nor shall the trustee make any more dispositions concerning the estate's assets and interests than desirable or necessary for preventing damage or substantial costs, if he considers probable that the bankruptcy proceedings may be concluded as provided for in Article 154, the second paragraph.

If ownership of an asset in the possession of an estate is unknown, or if it is known that an asset is not owned by the bankruptcy estate, and no one comes forth to claim it before the period for stating claims is over, the trustee in bankruptcy may dispose of the asset following publication of a notice in the Law and Ministerial Gazette calling for the owner to come forward. If such asset is susceptible to damage or decay, or if the costs of keeping it during the period for stating claims may be expected to exceed the proceeds from its sale, the trustee may however dispose of it during that period following the publication of such notice. The proceeds from sale of the asset shall convert to the bankruptcy estate if not claimed.

If, in a situation to which the second paragraph does not apply, the trustee in bankruptcy sells or disposes of an asset or an interest of which a third party was the rightful owner, and the trustee knew or should have known of the third party's rights, the third party may claim compensation from the estate if his loss is not covered by a claim such as referred to in Article 109, the second paragraph. His claim for compensation shall have the priority provided for in Article 110, subparagraph (3). If sale or disposition has taken place when the period for stating claims is over, and a third party did not declare his claim prior to the sale or disposition, the third party shall have no claim against a purchaser who neither knew nor should have known of the third party's rights.

Article 124

Subject to Article 129, the trustee in bankruptcy shall decide how to dispose of the assets and interests of the bankruptcy estate, including how and to whom they shall be sold and at what price, and whether a claim shall be asserted, collected by litigation, or renounced.

The trustee in bankruptcy shall convene meetings of the creditors as he deems appropriate, for announcing the measures he has taken, for seeking, as the case may be, proposals or decisions regarding measures that have yet to be taken, and for providing opportunities for making such proposals. The trustee shall in any case bring these matters up for consideration at a meeting of the creditors held to consider the list of stated claims, and shall convene a meeting for this purpose if requested in writing by creditors who would exercise one fifth or more of the voting rights at the meeting. The decisions of a meeting of the creditors on measures not yet taken shall be binding upon the trustee as provided for in Article 127.

Even if the trustee does not convene a meeting of the creditors to consider some individual measures of his, he should consult in advance any creditors to whom his measures relate in particular, and any creditors affected by his measures more than others.

Article 125

Each creditor who has stated his claim to the trustee in bankruptcy is entitled to attend a meeting of the creditors, provided his claim has not been finally rejected.

The trustee in bankruptcy may permit other persons to attend meetings, including the bankrupt and a leader of a company or institution subject to bankruptcy proceedings, if the agenda have a bearing on their interests and if their presence may be beneficial, or if their presence is not objected to by anyone entitled to attend. Such persons shall only have a right to speak and make proposals to the extent permitted by the trustee.

Article 126

To the extent it may be necessary to count votes at a meeting of the creditors, these shall be determined by the amounts of the claims of those entitled to attend, as provided for in Article 125, the first paragraph, who have stated claims for payment in money. If the trustee in bankruptcy has not taken a stand with respect to recognition of a claim, or if it is secured in part, not yet due, disputed, or conditional, the trustee shall determine provisionally what voting strength it shall be given.

If the trustee in bankruptcy deems clear that a claim will either be paid in full or not paid at all, irrespective of the results of voting, the creditor in question shall not enjoy voting rights on the basis of the claim.

If a matter pertaining to the specific interests of a particular creditor is put to a vote, the vote of the creditor in question shall not count.

Article 127

A meeting of creditors shall be competent to resolve matters if attended by creditors exercising at least one third of the voting rights, cf. Article 126.

The trustee in bankruptcy shall be bound by the decisions of a meeting of creditors which is competent to take them. However, if the trustee is of the opinion that such a decision is contrary to law, dishonest, impossible to carry out, or clearly contrary to the interests of creditors who have not attended the meeting or may yet come forward, he may disregard the decision and either take the matter up at a new meeting of the creditors, or resolve the matter himself.

If the creditors in attendance disagree on a decision made at a creditors' meeting which is competent to resolve matters, the trustee shall generally adhere to the majority decision. This shall however not be done if there are grounds for deviation, such as referred to in the second paragraph, or if he deems that the power of the majority may be misused to the detriment of the minority. If the trustee however does not consider possible to carry out a majority decision, he may either take the matter up at a new meeting of the creditors, or resolve the matter himself.

If the votes at a creditor's meeting which is competent to resolve matters are equal for and against, the trustee shall resolve the matter in the way he thinks most appropriate, unless he prefers to convene a new meeting.

Article 128

The trustee in bankruptcy shall make his decisions regarding the agenda, cf. Article 127, known at a meeting of the creditors as soon as they are taken, unless he deems necessary to postpone a decision until a new meeting is held.

If a creditor fails to attend a creditors' meeting to which he has been called, he shall have forfeited his right to challenge, and to make any claims relating to, the decisions or measures taken there.

A creditor entitled to a vote on matters concerning the estate, who considers a decision or disposition made by the trustee unlawful, may protest against it either at the meeting at which it was presented or at the next convened meeting, provided he has not forfeited his right to do so as provided for in the second paragraph. In the event of such protest the trustee in bankruptcy shall seek to resolve the dispute; if unsuccessful, the matter shall be referred to the district court as provided for in Article 171. While the dispute remains unresolved no further arrangements shall be made with respect to the matter in question, except as necessary for preventing the loss of any rights or valuables.

Article 129

If disposition is to be made of an asset in the ownership of the bankruptcy estate which is subject to mortgage, pledge or other security interest, and the trustee in bankruptcy considers that it can not be sold at a price adequate to pay the claims of all the interested parties, he shall convene a meeting of the parties possessing such security interests. Subject to provisions to a different effect in this Act, the meeting shall be convened and conducted as a meeting of the creditors, with the exception that voting shall not be binding upon the minority.

At a meeting of the interested parties, the trustee in bankruptcy shall present his plans concerning the disposition of an asset subject to security interest. At that meeting, he shall seek the approval of those in attendance for disposing of the asset with the effect that interested parties who may not obtain satisfaction of their claims from the proceeds of the asset will lose their collateral rights.

If the asset is not disposed of by forced sale and the trustee receives a bid which he deems acceptable, but is insufficient to satisfy the rights of all the interested parties, he shall, if they have not already granted their approval as envisaged in the second paragraph, convene those who would not obtain satisfaction from the proceeds of the asset to a new meeting. The notification to attend shall clearly state the offered price, and the trustee's assessment of how far he deems the proceeds will reach towards settling the claims of all the interested parties.

At a meeting of interested parties held as provided for in the third paragraph, the trustee in bankruptcy shall provide those present, who would not obtain satisfaction from the proceeds if the bid were accepted, with an opportunity to take the bid over or to make a higher bid. If two or more parties express a desire at the meeting to take over the bid, and a consensus is not reached on any other arrangement, they shall be given an opportunity to make a higher bid. The trustee in bankruptcy shall decide at the meeting which bid shall be accepted, unless he considers that there are grounds for postponing a decision, or for seeking further bids.

When a trustee in bankruptcy disposes of an asset as provided for in the fourth paragraph, any security interests upon the asset that are not released as a result of payment, shall be cancelled. If officially recorded, the trustee shall have such interests removed from the records, submitting minutes, notifications to attend and any other evidence to confirm that the relevant requirements have been fulfilled.

A mortgagee or other party possessing interest in property to which this Article applies may protest against the measures taken with respect to the property as provided for in Article 128, the third paragraph.

Article 130

If the trustee in bankruptcy decides not to pursue interests to which the bankruptcy estate is entitled or may be entitled, whether as resolved by a meeting of the creditors or not, any creditor who has stated a claim against the estate that has not already been rejected can do so in his own name for the benefit of the estate, as long as the estate has not been otherwise committed by the trustee. A creditor desiring to take such action shall promptly notify the trustee in bankruptcy, and shall himself bear the costs and risks of his measures, but can claim refund of his costs from the bankruptcy estate to the extent the estate profits from them.

If no creditor takes any measures such as provided for in the first paragraph, the bankrupt may do so, if a private natural person.

If a creditor or the bankrupt has taken the interests of the bankruptcy estate into his care as provided for in the first or second paragraph, the trustee in bankruptcy may at any time take charge of them again, provided the bankruptcy estate at the same time pays the cost ensuing from the measures taken.

Chapter XX

Rescission of measures taken by a bankrupt etc.

Article 131

Rescission may be claimed of a donation, if delivered to the recipient in the six months preceding the reference date.

A claim may be made for rescission of a donation if delivered to the recipient in the six to twelve months before the reference date, unless it is established that the bankrupt was solvent at that time, despite the donation. This shall also apply to donations made to the bankrupt's relatives delivered in the period from six to twenty-four months before the reference date.

Rescission shall not be granted of ordinary casual gifts, gifts comparable to casual gifts, or grants, if they did not entail costs disproportionate to the bankrupt's situation.

Article 132

Rescission may be claimed of a bankrupt's renunciation of inheritance during the six months preceding the reference date. If inheritance has been distributed before the court order declaring bankruptcy was issued, the claim shall be directed to the person who received inheritance, or increased inheritance, on account of the renunciation.

A claim may be made for rescission of renunciation of inheritance if made six to twenty-four months prior to the reference date, unless it is established that the bankrupt was solvent at that time, despite the renunciation.

If the financial relationship between the bankrupt and his or her spouse or cohabiting partner has been severed, involving a surrender of the rights of the bankrupt, rescission of the measure may be claimed as provided for in the first and second paragraphs, to the extent the bankrupt's spouse or cohabiting partner received more than his or her due.

Article 133

Rescission may be claimed of a payment of wages or other remuneration for work, or of pension, made by the bankrupt in the six months preceding the reference date to close relatives, if the payment was clearly higher than reasonable with a view to the work performed, the income from the business operation, and other facts. Rescission is permitted only to the extent that the payment was unreasonably large.

The same shall apply to a payment made six to twenty-four months before the reference date, unless it is established that the bankrupt was solvent at that time, despite the payment.

Article 134

Rescission may be claimed of the payment of a debt in the six months preceding the reference date, if the payment was made in unusual form, made unreasonably early, or made in an amount that significantly impaired the bankrupt's payment ability, unless the payment appeared ordinary in the circumstances.

Rescission may be claimed of such payment to the bankrupt's relatives in the six to twenty-four months before the reference date, unless it is established that the bankrupt was solvent at that time, despite the payment.

Article 135

If the bankrupt has paid a bill of exchange, or a cheque, that measure shall not be rescinded with respect to a recipient that had to accept the payment in order to maintain his rights against others under the rules governing such instruments, unless the bankruptcy estate establishes that payment could not be obtained from them. However, the party shall pay who finally would have suffered loss had the bankrupt not made the payment, provided that the conditions for rescission would have been fulfilled if the bankrupt had made the payment.

Article 136

The provisions on rescission shall also apply to set-off in cases where set-off is not allowed by the provisions of Article 100.

Article 137

Rescission may be claimed of a mortgage or other security interest granted a creditor in the six months before the reference date, if not granted when the debt to him was incurred. The same shall apply if such interests are not officially recorded or insured by other means against enforcement without undue delay after the debt so secured was incurred, and not until six months remain to the reference date.

Rescission may be claimed of a mortgage or other security interest granted a relative in the period from six to twenty-four months before the reference date, if the provisions of paragraph 1 apply in other respects, unless it is established the bankrupt was solvent at that time, despite the security interest having been granted.

Article 138

Attachment of an asset of the bankrupt shall be cancelled automatically when a court order declaring his bankruptcy is issued, provided the asset converts to the bankruptcy estate. The same shall apply to an enforcement action establishing a lien upon an asset of the bankrupt in the six months before the reference date, provided the asset converts to the bankruptcy estate.

The same shall apply to attachments and enforcement actions that have taken place in the period six to twenty-four months before the reference date upon the petition of any relative of the bankrupt, unless the relative establishes in court that the bankrupt was solvent at that time, despite the measure.

Article 139

Rescission may be claimed of the payment of a debt made after the reference date, except if the provisions of Chapter XVII would have had the effect that the debt would have been paid in the course of bankruptcy proceedings, payment was necessary in order to avert damage, or the recipient neither knew nor should have known that a petition for a licence of financial reorganisation, a petition for a licence of composition with creditors, or a bankruptcy petition had been submitted.

Rescission may be claimed of any other measures taken after the reference date, except those necessary for the business operation of the bankrupt, reasonable with a view to the common interests of creditors, or necessary to meet daily needs. Rescission shall not be granted with respect to a party reasonably assuming that a measure was of such nature as described, or if such party neither knew nor should have known that a petition for a licence of financial reorganisation, petition for a licence of composition with creditors, or a bankruptcy petition, had been submitted.

Rescission shall only be possible of a measure taken with the approval of a debtor's assistant in the course of financial reorganisation, or of a composition agent, if the approval was obviously given in contravention of the powers to authorise such a measure given them in this Act.

Article 140

Where the condition is set for rescission that a measure is taken, or an enforcement action conducted, within a specified period of time, this condition shall be deemed fulfilled, if the measure or enforcement is officially recorded or other action taken in order to prevent others from gaining greater rights by enforcement, within that period of time.

Article 141

Rescission may be claimed of any measures which improperly benefit a creditor at the expense of other creditors, measures that thwart the possibilities of creditors for obtaining satisfaction from the bankrupt's assets, and measures that increase the bankrupt's liabilities to the detriment of his creditors, if the bankrupt was at that time insolvent or became insolvent as a result of the measure, and provided that the party benefiting from the measure knew or should have known of the bankrupt's insolvency or the conditions that rendered the measure improper.

Article 142

If rescission is granted by reference to the provisions of Articles 131-138, the party benefiting from the rescinded measure or enforcement action shall pay the bankruptcy estate an amount corresponding to his benefit from the bankrupt's payment, however not exceeding the loss sustained by the bankruptcy estate. If the benefiting party received a payment in ready money, or if the payment from the bankrupt was converted into ready money, the use of the money shall be irrelevant as far as the bankruptcy estate's claim is concerned. If it is clear that the

party dealing with the bankrupt knew that the measure could be rescinded, that party shall however be ordered to pay damages.

Any profits that accrue after an action for rescission has been filed shall be paid to the bankruptcy estate.

If rescission is granted by reference to Articles 139 or 141, the party benefiting from the rescinded measure shall make compensation according to the generally applicable rules.

Article 143

A party with respect to whom rescission takes place, who is ordered to pay money to a bankruptcy estate as provided for in Article 142 or other provisions, or to surrender valuables to a bankruptcy estate as provided for in Article 144, shall make his payment to the bankruptcy estate without regard to when distribution from the estate takes place. Such parties shall be entitled to submit their original claims against the estate and enjoy the same status as any other creditors possessing claims of the same priority.

Article 144

At the request of either party, payments shall be returned to the extent that they remain available, provided that this can be done without unreasonable reduction of the value of assets. Payments shall be balanced as needed with cash payments.

Article 145

In extraordinary circumstances a claim against a person who has benefited from a measure or from enforcement proceedings may be reduced or cancelled, if its payment would be unreasonably difficult, and other circumstances also recommend this.

Article 146

If the person receiving assets has transferred such assets to a third party, the bankruptcy estate shall have a claim against the third party as provided for in Articles 142-145, if the third party knew or should have known of the facts on which the claim for rescission was based.

If the third party is a relative of the bankrupt, the bankruptcy estate shall have a claim against that party to the extent provided for Article 142, the first and second paragraphs, and Article 143, cf. Article 144 and 145, even if the third party was in good faith.

Article 147

If a third party has provided security for, or guaranteed, a debt of the bankrupt, but has been released from his commitment as a result of a payment or an enforcement action that is subject to rescission, the bankruptcy estate shall have a claim against the third party according to the provisions of Articles 142 and 143, cf. Article 145, if the third party knew or should have known, at the time of the release, of the circumstances on which the claim for rescission was based. The bankruptcy estate may again require security, if security can be provided.

If the third party is a relative of the bankrupt, the bankruptcy estate shall have a claim against the third party according to the provisions of Articles 142 and 143, cf. Article 145, even if the third party was in good faith.

The provisions of the first and second paragraphs shall not prevent rescission with respect to a third party according to Article 134, the second paragraph, Article 139, the second paragraph, or Article 141.

Article 148

If legal action must be taken for rescission, this shall be done before six months have passed from when the claim for rescission could first be made by the trustee in bankruptcy. This period shall however not begin until the period for stating claims is over.

The time limit provided for in the first paragraph shall not apply to protests against a claim submitted against a bankruptcy estate.

Chapter XXI Composition in bankruptcy proceedings

Article 149

A bankrupt can, from the time a court order is issued declaring his bankruptcy and until a proposal is made for distribution from the bankruptcy estate, seek composition with his creditors in the purpose of concluding the bankruptcy proceedings by a composition agreement.

The provisions of Part 3 shall, with the exceptions laid down in this Chapter or arising from the nature of the matter, apply to composition agreements sought by the bankrupt as envisaged in the first paragraph.

The trustee in bankruptcy shall perform the duties normally performed by a composition agent. The trustee shall remain in charge of the bankruptcy estate in accordance with the generally applicable rules, even though composition is sought.

To the extent that a court order permitting a debtor to seek composition gives, according to the provisions of Part 3, rise to certain effects on the date it is issued, such effects shall, in cases of composition referred to in the first paragraph, come into being on the day a court order declaring bankruptcy is issued.

Article 150

The bankrupt shall notify the trustee in bankruptcy in writing if he wishes to seek composition. The notification shall state the premises on which his composition offer is based, and the reasons why he considers himself capable of honouring the offer. It shall also include such explanatory notes to his composition proposal as the bankrupt may find necessary.

A notification pursuant to the first paragraph shall be accompanied by a composition proposal prepared in accordance with the provisions of Article 136, and written declarations of at least one fourth of the parties who would be entitled to vote on the proposal, counting both their number and the amounts of their claims, stating that they recommend composition on the basis of the bankrupt's proposal.

The trustee shall decide as soon as possible whether voting shall take place on the bankrupt's composition proposal. This shall not be done if, in the trustee's opinion, any of the circumstances listed in Article 38, the first paragraph, which would have resulted in a petition for a licence of composition being denied, apply. If the trustee denies the bankrupt's request for a vote on his proposal, and the bankrupt does not accept the denial, the trustee shall refer the matter to the district court as provided for in Article 171.

Article 151

If the trustee in bankruptcy decides that voting shall take place on the bankrupt's proposal, he shall convene a particular meeting of the creditors for this purpose by a notification published in the Law and Ministerial Gazette on a notice of at least two weeks, stating that the bankrupt's proposal and a list as provided for in the second paragraph will be available for inspection at his office during the two weeks immediately prior to the meeting. Such a meeting shall however not be held until a creditors' meeting held to discuss the list of stated claims against the bankruptcy estate is over.

The trustee in bankruptcy shall prepare a list of the rights to vote on the bankrupt's composition proposal. The list shall include only the claims that have been recognised during the bankruptcy proceedings and which, in the trustee's opinion, give rise to voting rights. The votes attached to each claim shall be listed, both by number of creditors and by the amounts of claims. The trustee shall not be required to notify the creditors whether or how their claims are included on the list, except to the extent he may deem that a recognised composition claim does not give rise to a right to vote.

Article 152

At a creditors' meeting held for voting on the bankrupt's composition proposal, the trustee in bankruptcy shall ask for comments on his determination of voting rights in the list prepared as provided for in Article 151, the second paragraph, and ask whether any creditor claims voting rights that are not included on the list. Objections may not be raised against the trustee's statement as regards points that have already been settled during the bankruptcy proceedings, cf. Article 120, the third paragraph. Moreover, new claims may not be submitted, except to the extent that they are simultaneously submitted at the bankruptcy proceedings, cf. Article 118.

The provisions of Articles 49-52 shall apply to the voting process and the number of votes required for approval of a composition proposal, with the exception that if a disputed vote may be decisive, the trustee in bankruptcy shall have the matter resolved as provided in Article 120, the second paragraph. The results of the voting will then not become known until the dispute has been resolved.

Article 153

No particular notification or announcement shall be required if the bankrupt's proposal does not receive the approval of a sufficient number of voting creditors, or if the bankrupt's request for a confirmation of composition is denied.

If the proposal is approved, the confirmation of the composition agreement shall be subject to the provisions of Chapter IX, as applicable. However, a composition proposal shall only be confirmed if any claims such as referred to in Articles 109 - 112 have been paid, or if adequate collateral is provided for their payment, or if the parties in question agree in writing that the composition agreement should be confirmed despite this not having been done. If the bankrupt's request for confirmation of the composition agreement is accepted, the trustee in bankruptcy shall announce the conclusion of the bankruptcy proceedings as provided for in Article 162, the second paragraph.

Chapter XXII

Distribution and conclusion of bankruptcy proceedings

Article 154

Bankruptcy proceedings shall immediately be brought to an end if composition is achieved pursuant to the provisions of Chapter XXI.

Bankruptcy proceedings shall also be brought to an end if the bankrupt submits, after the period for stating claims has expired, declarations from all those who have stated a claim to the effect that their claims are withdrawn, or if the bankrupt demonstrates that their claims have been settled.

If bankruptcy proceedings are discontinued as provided for in the first or second paragraphs, the trustee in bankruptcy shall deliver any assets of the bankruptcy estate in his care back to the bankrupt, provided the cost of the proceedings have been paid. The trustee shall prepare a written statement of the payments he has received and made on behalf of the bankruptcy estate, and deliver it to the bankrupt if he so requests.

The trustee shall refer a dispute as to whether the bankruptcy proceedings may be brought to an end as provided for in the second paragraph to the district court as provided for in Article 171.

Article 155

If it comes to light after the period for stating claims has expired that the bankruptcy estate's assets do not suffice to pay any claims in excess of those referred to in Article 109, and Article 110, subparagraphs (1) and (2), the proceedings shall be concluded, with payment of those claims as the case may be, at a creditors' meeting held to consider the list of stated claims, or a creditors' meeting specifically convened by the trustee at a later date for this purpose. However, in such a situation the trustee may decide to continue the bankruptcy proceedings, if he considers that the bankruptcy estate may acquire further rights by litigation or other measures, and the party responsible for the costs of the bankruptcy proceedings, or any other creditor in his stead, declares his readiness to bear the cost of such measures and, as the case may be, provides security for such costs.

If the trustee in bankruptcy decides to conclude the bankruptcy proceedings as provided for in the first paragraph, he shall announce this at a meeting of the creditors and submit a statement of the payments he has received and made on behalf of the estate. The trustee shall refer any dispute concerning his decision to the district court as provided for in Article 171.

Article 156

If bankruptcy proceedings have not been brought to a conclusion as provided for in Article 154 or Article 155, the trustee in bankruptcy shall, as soon as possible, pay the claims against the bankruptcy estate which have already been recognised and can be paid in full, in the order of their priority. This shall however only be done if funds are also set aside for the full payment of any conditional or disputed claims which could enjoy the same or higher priority, and any such claims shall, as appropriate, be paid as soon as the condition in question is fulfilled or the dispute resolved.

Following payment pursuant to the first paragraph, the trustee may make payments towards all claims next in priority, still taking care to set aside funds for payment of conditional or disputed claims that could enjoy the same priority.

Article 157

The trustee in bankruptcy may decide to conclude the bankruptcy proceedings even if a stated claim is subject to an unfulfilled condition, or disputed in a legal action that clearly will not be concluded for some time. Funds shall be set aside for payment of such claims based on the priority they would enjoy if recognised. Article 163 shall apply to safekeeping of the funds and reopening of the bankruptcy proceedings for their distribution.

If the bankruptcy estate claims interests which are disputed, or if it is reasonably assumed that considerable time will pass before such interests can be turned into ready money, or that payment will be delayed, the trustee in bankruptcy may decide to end the bankruptcy proceedings in spite of the interests in question. The trustee shall however pursue any such interests and reopen the proceedings as provided for in Article 164 when disposition of them becomes possible for the bankruptcy estate. The trustee may set funds aside to meet any expenses due to such measures, and keep such funds in the same manner in so far as they are not fully used.

Article 158

When the bankruptcy estate's assets have been sold, its claims have been collected and disputes have been resolved in any aspects to which Article 157 does not apply, the trustee in bankruptcy shall prepare a proposal for distribution from the estate, which shall contain the following information as needed:

1. A statement of the estate's assets, indicating the amounts of ready funds originally available, and funds derived from collected claims, as proceeds from the sale of individual assets, acquired as dividend or interest, etc;
2. a statement of the cost of the bankruptcy proceedings and any other expenses borne by the estate, followed by an overview of payments made towards the claims referred to in Article 156, the first paragraph;
3. a statement of any assets not subject to distribution and any funds provisionally set aside, cf. Article 157, and
4. a statement of the amount to be paid to each creditor who has not already been paid in full, and the amounts that each of them may have previously received in partial settlement of their claims as provided for in Article 156, the second paragraph.

In his proposal, the trustee may decide that no allocation will take place towards claims that would only be paid in very small amounts; however, any such claims shall be listed in his proposal.

Article 159

When a proposal for distribution has been prepared, the trustee in bankruptcy shall convene a creditors' meeting to consider the proposal by a notice published in the Law and Ministerial Gazette, on a notice of at least two weeks. The notice shall state the reason for the meeting, that the proposal will be available for inspection at the trustee's office by creditors and others having legitimate interests during the two weeks preceding the meeting, and that it may be expected that the proposal will, if not challenged, serve without amendments as a statement of distribution.

Article 119, the third paragraph, shall apply as regards the right to have access to the distribution proposal and for obtaining a copy thereof.

Article 160

During a creditors' meeting which is convened as provided for in Article 159, the first paragraph, the trustee in bankruptcy shall present the proposal for distribution and provide the information those in attendance may request. The provisions of Article 125 shall apply as regards the right to attend. The trustee shall to the extent possible grant the requests of those in attendance to inspect any documents in his possession on which the accounts of the bankruptcy estate are based.

If the parties that have submitted claims against the bankruptcy estate do not challenge the proposal for distribution at the meeting of the creditors, the proposal shall be regarded as finally approved, irrespective of whether they have attended the meeting. The trustee shall then write on the proposal that it is approved as a statement of distribution, and that the bankruptcy proceedings are thereby concluded.

If the distribution proposal is challenged at the meeting, in points which the party in question has not forfeited his right to challenge, as provided for in Article 120, the third paragraph, or Article 128, the second paragraph, the trustee shall request the party to state what amendments should, in the party's opinion, be made to the proposal.

If only amendments are requested that the trustee deems should be made, he may amend the proposal accordingly and conclude the bankruptcy proceedings, provided the amendment only relates to correction of obvious or insignificant errors, or if the meeting is attended by all parties affected by the amendment and all those parties approve it. If this is not done, the trustee shall convene a new meeting for considering the amended proposal, as provided for in Article 159, the first paragraph.

If challenges against the proposal for distribution can not be dealt with as provided for in the fourth paragraph, the trustee shall convene a meeting of the parties to whom the challenges relate, if they are not in attendance, and seek to settle their differences. If not successful, the trustee shall refer the matter to the district court as provided for in Article 171. When the dispute has been resolved, the trustee in bankruptcy shall prepare a new distribution proposal and convene a meeting to consider that proposal, except if the previous proposal has not been sustained and it is therefore to be regarded as finally approved.

Article 161

When bankruptcy proceedings have been brought to a conclusion as provided for in Article 160, the trustee in bankruptcy shall promptly make payments to the parties entitled to them according to the distribution statement.

If payments can not be made as provided for in the first paragraph, for example because a creditor has failed to inform the trustee of where he can be reached, the trustee shall keep the payment intended for the party in question on a separate account carrying the highest available interest in a commercial bank or savings bank. If the creditor entitled to the payment does not contact the trustee within one year from the publication of a notice announcing the conclusion of the bankruptcy proceedings according to Article 162, the second paragraph, the trustee in bankruptcy shall pay the funds to the State Treasury.

If a creditor waives the right to be paid, or returns the payment after the bankruptcy proceedings have ended, the trustee in bankruptcy shall dispose of it as provided for by Article 164.

Article 162

The trustee in bankruptcy shall notify the district court in writing of the conclusion of bankruptcy proceedings. His notification shall be accompanied by a transcript of the minutes of the creditors' meeting where the proceedings were concluded, unless this has taken place outside a meeting, cf. Article 154. As applicable, the notification shall also be accompanied by a statement prepared by the trustee as provided for in Article 155, the second paragraph, or the statement of distribution from the estate.

When the bankruptcy proceedings have been concluded, the trustee shall without delay have an announcement to that effect published in the Law and Ministerial Gazette. The announcement shall state the name and the National Registry number of the bankrupt, the date of declaration of bankruptcy, the date of conclusion of the bankruptcy proceedings, the percentage of claims paid within the individual categories, and the amounts of claims not paid. If the bankruptcy proceedings have been concluded by composition, the main substance of the composition agreement shall be described.

Article 163

If the trustee in bankruptcy has concluded the bankruptcy proceedings after having set funds aside to cover conditional or disputed claims, the funds shall be deposited to a separate account carrying the highest available interest in a commercial bank or savings bank. The trustee shall keep the documentation for such an account.

When it has become clear whether a conditional claim is to be paid, or when a dispute concerning a claim has been resolved, the trustee shall reopen the bankruptcy proceedings and pay the claim, as applicable. If the funds set aside are used in full for this purpose, the trustee shall announce the conclusion of the bankruptcy proceedings as provided for in Article 162, but if any funds remain, Article 164 shall apply.

Article 164

If bankruptcy proceedings have been concluded without taking into account an asset which the bankruptcy estate did not have control over at that time, the trustee in bankruptcy shall without delay, and on his own initiative, reopen the proceedings if the asset becomes available to the estate. When the asset has been sold, as the case may be, the trustee shall compile a proposal for additional distribution, and proceed afterwards as provided for in Articles 158-162. The trustee may however defer the additional distribution if it is foreseen that other assets will also become available to the estate, and simultaneous distribution of their proceeds is deemed more practical. If the amount that would be distributed additionally is insignificant, and no further assets may be expected to

convert to the estate, the trustee may conclude the proceedings anew by paying the amount to the State Treasury. This conclusion shall be advertised as provided for in Article 162.

If an asset is discovered after bankruptcy proceedings have ended, which should have converted to the bankruptcy estate, the provisions of the first paragraph shall apply.

If bankruptcy proceedings are reopened as provided for in the first and second paragraphs, creditors' meetings shall be convened and other measures taken as necessary, as provided for in the earlier Chapters of this Part.

Article 165

Bankruptcy proceedings shall not be reopened except as permitted in Articles 163 and 164.

The bankrupt shall remain liable for the debts that are not paid in the course of the bankruptcy proceedings. If a claim has been stated during the proceedings but not paid, a new period shall, as regards statutes of limitation with respect to the bankrupt, commence on the day the bankruptcy proceedings are terminated, provided that the claim was recognised; if the claim was not recognised a new period shall commence on the day the claim was stated.

Part 5

Procedure as regards disputes in court

Chapter XXIII

The disputes that may be referred to the courts, and the procedure

Article 166

If a dispute arises during a court session concerning a debtor's petition for extension of a licence of financial reorganisation, cf. Article 16, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The debtor shall be the plaintiff, and the party challenging his petition shall be the respondent. If more parties than one challenge the debtor's petition, the matter shall be resolved in a single case even if it is challenged on different grounds, in which case both or all the parties challenging the petition shall be regarded as respondents.

If a dispute arises during a court session as to whether a debtor's licence of financial reorganisation shall be cancelled, cf. Article 26, the fourth paragraph, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The party requesting cancellation of the licence of financial reorganisation shall be the plaintiff, and the debtor shall be the respondent.

In a case originating as referred to in the first or second paragraphs, the judge shall permit the parties to submit any documents which they may already have in their possession when the case is filed, and to express their views briefly before receiving the matter for a resolution. If one of the parties, or both or all, so request, the judge shall however defer the case to a main trial where the parties, both or all, shall be given an opportunity to submit written briefs and evidence, but the period granted shall generally not be longer than three days. The procedure shall in any other respects be governed by the general provisions of Chapter XXIV.

Article 167

If a dispute arises during a court session as to whether a debtor's licence for seeking composition shall be cancelled, cf. Article 42, the fourth paragraph, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The party requesting cancellation of the licence shall be the plaintiff, and the debtor shall be the respondent.

If a dispute arises during a court session concerning the request of a debtor for confirmation of a composition agreement, cf. Article 56, the third paragraph, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The debtor shall be the plaintiff, and the party challenging his request shall be the respondent. If more parties than one challenge the debtor's request, the matter shall be resolved in a single case even if the challenges are made on different grounds, in which case both or all the challenging parties shall be regarded as respondents.

Procedure in disputes referred to in the first or second paragraphs shall in other respects be governed by Article 166, the third paragraph; however, periods of up to two weeks may be granted in the cases referred to in the second paragraph.

Article 168

If, during a court session, a debtor challenges a request of his creditor for a declaration of the debtor's bankruptcy, cf. Article 70, the fourth paragraph, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The creditor in question shall be the plaintiff, and the debtor shall be the respondent.

Procedure in a dispute referred to in the first paragraph shall in other respects be governed by Article 166, the third paragraph; however, periods of up to two weeks may be granted.

Article 169

A party requesting a district court's order relieving a trustee in bankruptcy from his duties, cf. Article 76, the third paragraph, shall send a request in writing to this effect to the district court that appointed the trustee. The following shall be stated in the request:

1. The name, National Registry number and address of the requesting party, with an explanation of what makes the party entitled to make the request;
2. the identity of the trustee in bankruptcy to whom the request relates, and the duties for which the trustee was appointed;
3. reasoning for the request, together with a description of the facts as necessary for the sake of context.

Any documents on which the request is based shall accompany the request.

The district court judge shall handle the request as provided for in Chapter XXIV. The party requesting that the trustee be relieved shall be the plaintiff, and the trustee shall be the respondent.

Article 170

If a dispute arises during a court session concerning a trustee's request as referred to in Article 82, the third paragraph, or Article 83, the first paragraph, the district court judge shall immediately file a case, without notifications in advance, for resolving the dispute. The bankruptcy estate in question shall be the plaintiff, and the party against whom the request is directed shall be the respondent.

Procedure in disputes referred to in the first paragraph shall in other respects be governed by Article 166, the third paragraph; however, such a case shall not be deferred for oral argumentation except by a common request of the parties.

Article 171

If a dispute arises relating to bankruptcy proceedings which, according to the provisions of this Act, the trustee in bankruptcy shall refer to the district court for a resolution, or if the trustee considers that a district court resolution is needed for resolving any other disputes that may arise in the course of bankruptcy proceedings, he shall direct a written request to this effect to the district court that appointed him. The request shall state the following:

1. The bankruptcy proceedings in the course of which the dispute has arisen;
2. the names, National Registry numbers and addresses of the parties to the dispute;
3. the subject matter of the dispute and the requests or claims made, and
4. the trustee's opinion as to whether the bankruptcy estate must be a party to the case.

The request shall be accompanied by the documents that relate to the dispute.

When handling a dispute as referred to in the first paragraph, the district court judge shall proceed as provided for in Chapter XXIV. If recognition of a claim against the estate is in dispute, the party making the claim shall generally be the plaintiff, and the bankruptcy estate or the party protesting against recognition of the claim the respondent. If the dispute relates to other matters, the judge shall determine the status of the parties as indicated by its nature.

Article 172

If a bankruptcy estate claims interests against others, which could be pursued in ordinary civil litigation, the trustee in bankruptcy may seek resolution by the district court as provided for in Chapter XXIV, provided the

party or parties against whom the claim is made grant their approval. If so, the trustee in bankruptcy shall send the district court that appointed him a summons and other legal documents of a plaintiff, prepared as provided for in the Code of Civil Procedure, with the exception that the summons shall not specify the court session for filing the case. This shall be accompanied by a written petition for this procedure, stating as necessary how the conditions for such procedure are met.

When a district court judge receives the petition and the legal documents referred to in the first paragraph, he shall at first examine whether the conditions for granting the petition are fulfilled. If the judge is not of that opinion he can, by a decision in writing, decline to handle the case, but if the trustee can not accept this, he may request that the judge issue a court order denying his petition. If not, the district court judge shall proceed as provided for in Chapter XXIV, but shall not be bound by his decision to do so if a dismissal of the case is requested later.

Article 173

Subject to the provisions of this Chapter, matters concerning the duties of third parties can not be resolved in the cases referred to in Chapter XXIV, except for disputes concerning:

1. Whether the third party shall pay legal costs or a procedural fine in connection with a case proceeded with as provided for in Chapter XXIV;
2. whether a counterclaim, for set-off or for independent judgment, shall be paid, provided the third party in question has himself stated a claim asserting his rights during the bankruptcy proceedings; a legal action concerning his claim is in progress as provided for in Chapter XXIV; the conditions for cross-action seeking award of the counterclaim, or for setting the counterclaim off against his claim, would have been fulfilled in ordinary civil litigation for an award of his claim, and provided the party made an appearance in court when the counterclaim was first asserted in court, or
3. whether costs due to chattels which the third party has claimed delivery of from the bankruptcy estate are to be paid, provided a legal action concerning his claim is in progress in accordance with the provisions of Chapter XXIV; however, such a claim shall only be awarded as a condition for delivery.

Chapter XXIV Procedure in district court

Article 174

When a dispute has been referred to the district court judge for resolution in the manner referred to in Articles 169, 171 or 172, and the judge has, as the case may be, ascertained that the conditions for procedure as provided for in this chapter are fulfilled, he shall decide on the time and place of a court session for filing the case, and notify this to all the parties, stating the following:

1. The identity of the party that referred the matter for a resolution;
2. the identities of the parties on both sides, together with their National Registry numbers and addresses;
3. the substance of the dispute of which resolution is sought, and the claims made by the plaintiff, in so far as they are already known;
4. where and when the case will be filed, and
5. the consequences for the parties, on both sides, of failing to make an appearance.

The notification shall be accompanied by a copy of the document sent the district court judge as provided for in Chapter XXIII, for the purpose of seeking his resolution. If the case is such as referred to in Article 172, a copy of the summons shall also be enclosed. Instead of this, the judge may however include in the notification the texts that would else have been enclosed in separate documents.

Article 175

A notification as provided for in Article 174 shall be served the parties to the case or a person competent to receive a summons on his behalf, on a notice which the judge has deemed suitable.

Service according to the first paragraph shall take place in the same manner as when a summons is served in a civil action.

Article 176

A legal action pursuant to this Chapter shall be deemed initiated when filed in court, with the district court judge exhibiting in court the documents he has received which he deems relevant for resolving the case, together with the notifications provided for in Article 174 and documents evidencing their service.

If the plaintiff fails to make an appearance when the case is filed, or if he fails to make an appearance later, the case shall be cancelled. The district court judge may then award the respondent a payment for his inconvenience, if he makes an appearance and requests an order to that effect. If counterclaims have been made, cf. Article 177, the fourth paragraph, only the principal claim shall be cancelled, and the counterclaims against the plaintiff shall be resolved as provided for in the third paragraph.

If the respondent fails to make an appearance when the case is filed, or later, the case shall be handled in accordance with the general rules on default of appearance in civil proceedings, but the plaintiff shall then be afforded an opportunity to submit a brief and further evidence as provided for in Article 177, the first paragraph.

Article 177

If both or all parties make appearance in court when the case is filed, and no settlement is reached, the district court judge shall afford the plaintiff an opportunity to submit a brief, which also shall include a final statement of his claims and the grounds on which they are based, and any further material he may regard as supporting his case. In a case to which Article 172 does not apply, where a summons and other documentation of a plaintiff has already been submitted, the plaintiff may however be granted a short period for this purpose.

When the plaintiff's documents have been submitted as provided for in the first paragraph, the respondent shall be afforded a short period for submitting a brief, stating his requests relating to the formal and substantive aspects of the case, and any further material he may regard as supporting his case.

If the defendant requests dismissal, his request shall be handled in accordance with the general rules on civil procedure in the district court.

If the plaintiff makes an appearance the respondent may, in his brief, make independent claims relating to resolution of the issues, which shall be handled as counterclaims in the case. A counterclaim shall however only be admitted if, subject to Article 173, subparagraph (2), the conditions for making it independently would have been fulfilled as provided for in Chapter XXIII. The plaintiff shall be afforded an opportunity to submit a brief written response to counterclaims, but the claims and requests of both sides shall be addressed concurrently in the same proceedings.

Article 178

District court cases subject to procedure according to this Act shall be resolved in the form of court orders. The conclusions of such court orders shall be reasoned.

To the extent a different arrangement does not follow from the provisions of this Act, the general rules of civil procedure in the district court shall apply to procedure according to this Chapter.

Chapter XXV Appeal to a superior court

Article 179

To the extent that this Act does not provide otherwise, court orders and decisions rendered as provided for herein shall be subject to summary appeal to the Supreme Court. However, appeal is precluded against any court orders or decisions rendered during the procedure, which would not be subject to summary appeal in a civil action conducted in accordance with the generally applicable rules. Appeal shall also be precluded against any order of a district court judge which involves a final resolution of the issues, unless the general conditions for appeals against civil judgments are fulfilled.

To the extent this Act does not provide otherwise, the general rules on summary appeal in civil cases shall apply to the periods for summary appeal, the summary appeal itself, and the procedure in cases of summary appeal.

To the extent this Act does not provide otherwise, summary appeal shall have the same effects for the procedure in the district court as in civil litigation generally.

Part 6

Miscellaneous provisions

Chapter XXVI

Entry into force, repeal of earlier legislation, etc.

Article 180

This Act shall enter into force 1 July 1992.

Article 181 ...

Article 182 ...

Chapter XXVII

Interim provisions

Articles 183-188 ...

Article 189

A reference date during bankruptcy proceedings shall only be determined in accordance with the provisions of Article 2, the second to fourth paragraphs, if the events described there have taken place after this Act has entered into force. If a court order has been issued declaring bankruptcy prior to 1 July 1992, the provisions of earlier legislation shall apply with respect to matters covered by the provisions of Chapters XVI and XVII, and Article 129 of this Act.

Even if a court order has been issued declaring bankruptcy after 1 July 1992, claims originating after the reference date shall only be ranked in priority according to Article 110, subparagraph (4), if the bankrupt received a licence of financial reorganisation or a licence to seek composition after this Act entered into force.

Article 190

Rescission of any measures taken and enforcement proceedings conducted prior to 1 July 1992 shall be governed by the former legislation, regardless of the date at which a court order was issued declaring bankruptcy.

Article 191 ...

Article 192

If a dispute has arisen during composition attempts or bankruptcy proceedings prior to the entry into force of this Act, without a case for its resolution having been filed by the probate court, the dispute may be referred to the district court for a resolution according to the provisions of this Act.

Claims in court cases may be resolved as provided for in Article 173 even if bankruptcy proceedings have commenced before the entry into force of this Act.