

# **BANKRUPTCY LAW**

## **REGULATION OF THE PRESIDENT**

### **OF THE REPUBLIC OF POLAND of 24 October, 1934 BANKRUPTCY LAW**

(Dziennik Ustaw 1991, No. 118, item 512 with subsequent amendments: Dziennik Ustaw 1994, No. 1, item 1; 1995, No. 85, item 426; 1996, No. 6, item 43, No. 43 item 189, No. 106, item 496 and No. 149, item 703; 1997, No 28, item 153, No. 54, item 349, No. 117, item 751, No. 121, items 769 and 770, No. 140, item 940; 1998, No. 117, item 756)

Pursuant to Article 44, item 6 of the Constitution and the Act of 15 March, 1934 on the authorisation of the President of the Republic of Poland to issue Regulations with the force of Acts of Parliament (Dziennik Ustaw Rzeczypospolitej Polskiej 1934, No. 28. item 221) I hereby decree as follows:

## **TITLE I. DECLARATION OF BANKRUPTCY**

### **SECTION I. GROUNDS FOR DECLARATION OF BANKRUPTCY**

**Article 1** § 1. An entrepreneur who has ceased to pay debts shall be declared bankrupt.

§ 2. An entrepreneur, being a legal person and a registered partnership and limited partnership in liquidation shall be declared bankrupt also in cases where their estate is not sufficient to satisfy the debts.

**Article 2** A short-term suspension of debt payment due to temporary difficulties shall not be deemed to be a ground for a declaration of bankruptcy.

**Article 3.** § 1. State and municipal organisational entities shall not be declared bankrupt except in the case where an Act excludes the liability of the State Treasury and a commune for their obligations as well as of the Sickness Funds and institutions and organisations established pursuant to the provisions of statutory law.

§ 2. The State enterprise Polish Railways ("Polskie Koleje Państwowe"), the State enterprise Airports ("Porty Lotnicze") and State public utility enterprise Polish Post "Poczta Polska" shall not be declared bankrupt if an appropriate organ authorised to represent the State Treasury or a commune has taken objection and declared it is taking over the obligations of the debtor.

§ 3. The State Mint and Polish Security Printing Works, as well as other entities specified under separate legal provisions shall not be declared bankrupt if an appropriate person or a person authorised to represent the State Treasury or a commune has taken objection and declared it is taking over the obligations of the relevant debtor.

§ 4. An entrepreneur not being a legal person whose activity is not required to be registered in compliance with the legal provisions on economic activity, shall not be declared bankrupt.

**Article 4** § 1. A declaration of bankruptcy may be demanded by a debtor or by each of his creditors.

§ 2. Such a demand may be made, creditors apart by:

1) in relation to a registered partnership and limited partnership - each of the partners'  
2) in relation to legal persons and other organisational entities – every person authorised to represent them in person or jointly with other persons;

3) in relation to a State enterprise - also the founding organ and organ authorised to represent the State Treasury'

4) in relation to a legal person registered partnership and limited partnership being in liquidation - also by each of the liquidators.

**Article 5.** § 1. An entrepreneur who has ceased to pay debts shall present, within no more than fourteen days therefrom, a bankruptcy petition to the court.

§ 2. A representative of the entrepreneur referred to under Article 1 paragraph 2 shall present a bankruptcy petition within fourteen days from the date when the assets have ceased to suffice to satisfy the debts unless the time limit referred to under paragraph 1 has already begun to run.

§ 3. The time limits, referred to under paragraphs 1 and 2 shall not run, or where they have begun to run already they shall be suspended upon the filing by the entrepreneur of a petition for opening of the arrangement proceedings.

**Article 6.** The declaration of bankruptcy of a registered partnership or limited partnership shall not, by itself, entail declaration of bankruptcy of the partners.

**Article 7** The death of a debtor shall not prevent his bankruptcy being declared if the bankruptcy petition has been presented within a year of his death. Also each heir of the debtor may demand the declaration of bankruptcy. Presenting a bankruptcy petition by the inheritor shall not be tantamount to acceptance of the inheritance.

## **SECTION II. PROCEEDINGS FOR DECLARATION OF BANKRUPTCY**

### **Chapter I. Jurisdiction of the Court**

**Article 8.** § 1 Proceedings for the declaration of bankruptcy shall be instituted in the district court within whose district lies the principal establishment of the debtor, and if the debtor has several establishments in districts of various courts - in one of those courts. If the debtor has no enterprise in Poland, the court of jurisdiction shall be the one in whose district the debtor has his place of residence or seat, and where the debtor has no place of residence or seat in Poland, the court in whose district the estate of the debtor is situated shall have jurisdiction over the case.

§ 2. The power to declare bankruptcy lies with the district court-economic court consisting of three professional judges.

### **Chapter II. Bankruptcy Petition**

**Article 9.** § 1. The bankruptcy petition shall indicate:

- 1) forename and surname of the debtor, his business name, place of residence or seat, and where the debtor is a company or legal person - forenames, surnames and places of residence of the partners who bear unlimited liability for the company's obligations, representatives of the company, or a legal person and liquidators, if appointed;
- 2) place where the enterprise or other assets of the debtor are situated;
- 3) circumstances giving ground for the petition, and their substantiation.

§ 2. Where a bankruptcy petition has been presented by a debtor it is the debtor who shall also present:

- 1) a financial statement and, where no such statement is required under separate provisions, a balance sheet drawn up for the purpose of those proceedings
- 2) a list of creditors which states the amount of debt of each one of them and a list of securities effected by the creditors on his assets;
- 3) statements on the settlement of debts done within six months prior to the date of bankruptcy petition;
- 4) a list of subjects having financial obligations to the debtor, stating the debt amounts and time limits of payments thereof;
- 5) a list of executory titles against the debtor.

§ 3. Where the debtor maintains he is not in a position to present the documents referred to under paragraph 2. he shall be liable to account for that, showing the verisimilitude of the relevant causes;

§ 4. Where the declaration of bankruptcy is demanded by the creditor, it is the creditor who shall be obliged also to show the verisimilitude of the debt due to him.

§ 5. Where the debtor is an entrepreneur subject to registration in the National Court Register the bankruptcy petition shall be accompanied by the relevant extract from that register.

### **Chapter III. Interim Orders and Court Decisions**

**Article 10 § 1.** The court shall adjudicate on the bankruptcy petition not later than within a month from establishing that it meets the requirements prescribed under Article 9 which follows from Article 11 paragraph 1. Prior to the adjudication of the petition the court, if necessary and possible, shall hear the debtor and creditors. Where the petition relates to the bankruptcy of a State enterprise, the court may, where necessary, hear also the employees' council and the founding organ

§ 2. In a case where the petition has been presented by only some of the partners in a registered partnership or limited partnership, or only some representatives of another type of company or legal person, or last of all, only some liquidators, the court may, so far as it is necessary and possible, hear the remaining partners, representatives or liquidators. This provision shall apply respectively in a case where the petition has been presented by only some of the debtor's heirs.

§ 3. The court may, prior to the adjudication of the petition, admit expert evidence in order to verify grounds for the petition. Expert's fee shall be covered by the petitioner.

**Article 11. § 1.** The court may require an advance on costs of the legal proceedings by the creditor who is presenting the bankruptcy petition.

§ 2. After an ineffective expiry of the term for depositing the advance payment, the court shall dismiss the bankruptcy petition.

**Article 12. § 1.** Before adjudicating the bankruptcy petition the court may, on demand of the creditor, make an interim order which it deems appropriate with a view to securing the debtor's assets. In urgent cases such orders may be made by the presiding judge, though he shall present them to the court for examination at the next hearing

§ 2. The court may make the execution of the interim order conditional upon the creditor paying a deposit for securing claims by the debtor for the compensation in virtue of the execution of the order. Against the deposit the debtor shall have priority of satisfaction.

**Article 13. § 1.** The court shall dismiss the bankruptcy petition where the debtor's assets evidently do not suffice even to satisfy the costs of the proceedings. The court may also dismiss the petition where it has found that items included in the debtor's assets are encumbered with pledge, registered pledge or mortgage and the remainder of his assets evidently does not suffice even to satisfy the costs of proceedings

§ 2. The provisions of paragraph 1 above shall not apply to State enterprises and companies with exclusive shareholdings of the State Treasury, if the Minister of the State Treasury provides funds which are lacking to satisfy the costs of proceedings.

**Article 14. § 1.** In granting the bankruptcy petition the court shall give a decision providing:

1) the forename and surname, business name, place of residence or seat of the bankrupt;

2) a call on the bankrupt's creditors to submit their claims within a set time limit;

3) the appointment of the judge-commissioner and the official receiver.

§ 2. A legal person, too, may be the official receiver.

§ 3. Prior to the appointment of the official receiver of a State enterprise, the court shall hear the opinion of the founding organ.

§ 4. The Minister of Justice shall specify, by regulation, particular skills required of candidates for the post of official receiver and, as regards legal persons the conditions they must meet.

§ 5. As regards social insurance, official receivers and their family members shall be subject to the legal provisions on social insurance of persons conducting economic activity and their families.

**Article 15.** The date of the court decision shall be the date of declaration of bankruptcy.

**Article 16 § 1** The decision declaring bankruptcy shall be made known publicly forthwith by announcement in Monitor Sądowy i Gospodarczy and in local newspapers.

§ 2. The court's decision regarding declaration of bankruptcy shall be served upon the official receiver the bankrupt or his heir and creditor who has demanded the declaration of bankruptcy. The court's decision regarding bankruptcy of a State enterprise shall be served also upon its founding organ.

**Article 17. § 1.** A decision by the first instance court on the declaration of bankruptcy may be appealed against only by the bankrupt, whereas a decision dismissing the bankruptcy petition - only by the petitioner.

§ 2. If, however, the declaration of bankruptcy concerns a State enterprise, an appeal against both the declaration of bankruptcy and the decision dismissing a bankruptcy petition may be filed by a founding organ and the relevant organ representing the State Treasury, even if such organ is not the petitioner.

§ 3 According to the rules specified in the preceding paragraphs a decision made by the second instance court may be subject to cassation.

#### **Chapter IV. Civil Liability**

**Article 17<sup>1</sup>.** § 1. Any person who has not fulfilled the duty referred to under Article 5, paragraph 1 or 2 shall be liable for damage thus caused to the creditor, unless such a person is not guilty thereof. Where that duty has not been met by several persons, they shall bear joint and several liability.

§ 2. Matters referred to under paragraph shall be adjudicated by an economic court.

**Article 17<sup>2</sup>.** § 1. Any person who has not fulfilled the duty referred to under Article 5 paragraph 1 or 2 shall be deprived, for two to five years of the right to conduct economic activity on his own account and to perform the function of a representative or proxy of an entrepreneur, member of the supervisory board and audit commission in a joint stock company limited liability company or co-operative, unless the said person is guilty thereof.

§ 2. Issues referred to under paragraph I shall be subject to adjudication by the court conducting the proceedings for declaration of bankruptcy.

§ 3. The court shall institute the proceedings ex officio.

§ 4. The court shall issue the decision on having conducted a trial.

§ 5. The court's decision on the ban referred to under paragraph 1 shall be subject to appeal.

§ 6. Issues referred to under paragraph I, as regards their scope not regulated under paragraphs 2 to 5 shall be subject to the provisions of the Code of Civil Procedure on non-litigious proceedings.

**Article 17<sup>3</sup>.** § 1. Economic courts competent as regards bankruptcy issues shall keep registers of persons subject to the ban referred to under Article 17<sup>2</sup>, paragraph 1. The central record of the registers shall be kept by the Minister of Justice

§ 2. The registers and central record referred to under paragraph 1 shall be open to the public

§ 3. The court shall make an entry in the register and notify the Minister of Justice thereof immediately after the decision referred to under Article 17<sup>2</sup>, paragraph 4 has become valid.

§ 4. After the expiry of the period for which the ban was adjudicated, the court shall order, ex officio, the relevant entry in the register to be cancelled and shall notify the Minister of Justice of the cancellation.

§ 5. The Minister of Justice in agreement with the Minister of Finance shall determine by regulation, the manner of keeping the register and central record referred to under paragraph 1, the manner of imparting information, and the amount of charges for imparting information from the central record.

## **TITLE II. EFFECTS OF DECLARATION OF BANKRUPTCY**

### **SECTION I. EFFECTS OF THE DECLARATION OF BANKRUPTCY IN RESPECT OF THE BANKRUPT**

**Article 18.** § 1. The bankrupt shall indicate and release to the official receiver all his assets, and hand over the books of account, correspondence and other documents. The bankrupt shall confirm the fulfilment of that duty by a letter to be filed with the judge commissioner under the pain of criminal responsibility for making false declarations.

§ 2. He shall provide the judge-commissioner and official receiver with all necessary explanations, though he is under no duty to reveal any methods of production which are his secret.

§ 3. The bankrupt shall not leave his place of residence without the judge-commissioner's permission.

**Article 19.** § 1. When giving the decision declaring bankruptcy the court may apply means of compulsion to the bankrupt who defaults on his obligations, if there is ground for suspicion that the bankrupt has gone into hiding or has taken his assets into hiding.

§ 2. At the request of the judge-commissioner the court may also apply means of compulsion to the bankrupt who defaults on his duties or, after the declaration of bankruptcy, resorts to acts aimed at concealing the property, his being charged with apparent obligations, and generally hinders the establishment of his assets.

§ 3. The court shall quash the measure of compulsion of a person when the need for its use has ceased.

§ 4. The decision to apply means of compulsion is subject to appeal.

§ 5. The means of compulsion stated under the preceding paragraphs shall be subject to the respective provisions of the Code of Civil Procedure concerning the execution of non-cash performances, with the fine referred to under Article 1052 of the Code of Civil Procedure not exceeding ten thousand zlotys at a time.

**Article 19<sup>1</sup>.** Any person who fails to fulfil the duties prescribed under Article 18 or conceals his assets shall be subject to the provisions of Article 17<sup>2</sup>.

## **SECTION II. EFFECTS OF DECLARATION OF BANKRUPTCY UPON THE BANKRUPT'S ASSETS**

### **Chapter I. Bankruptcy in Respect of Administration and Disposition of the Assets**

**Article 20.** § 1. In virtue of the declaration of bankruptcy, the bankrupt shall, by operation of law forfeit the right to administer, use and dispose of assets which he owed on the day of declaration of bankruptcy or has acquired pending the proceedings. The assets shall constitute the bankruptcy estate.

§ 2. The bankruptcy estate shall not include his assets exempted by law from execution, nor the assets the bankrupt has gained by his personal earnings pending the proceedings, though only up to the standard of his essential needs and those of his dependants.

**Article 21.** The bankruptcy estate of one of the spouses shall include the movables owned by them jointly. If the co-ownership of spouses was interrupted within a year preceding the declaration of bankruptcy, the bankruptcy estate shall also include the movables owned by the other spouse except the items for his or her personal use only.

**Article 22.** § 1. The property assigned as aid for the bankrupt's employees and their families, if it is singled out both economically and in the books of account, shall not constitute a part of the bankruptcy estate.

§ 2. The Minister of Labour and Social Policy, in agreement with the Minister of Justice, shall determine by regulation, the scope of singled out property assigned as aid for the bankrupt's employees and their families, as well as the mode of its administration and liquidation.

**Article 23.** § 1. The inheritance falling to the bankrupt shall be admitted by the official receiver in a manner limiting the liability of the bankruptcy estate to the inheritance creditors up to the value of the inherited estate

§ 2. On application by interested persons the judge-commissioner shall fix the time limit in which the official receiver shall present a declaration stating whether he accepts the inheritance.

§ 3. The inheritance which the official receiver has not accepted shall not constitute part of the bankruptcy estate.

**Article 24.** The acts in law by the bankrupt in respect of the assets within the bankruptcy estate which have been performed after the declaration of bankruptcy shall have no legal effects upon the bankruptcy estate. However, the person who has performed a contract with the bankrupt may demand the return of the amount by which the bankruptcy estate has increased.

**Article 25.** Payments made directly to the bankrupt after an announcement of the declaration of bankruptcy shall not be obligatorily due to the bankruptcy estate, unless an equivalent has been transferred to the estate or the payee when making the payment. was unaware of the declaration of bankruptcy having been made.

**Article 26.** The provisions of the two preceding Articles shall apply also to mortgage operations, unless mortgage-pertinent provisions state otherwise.

**Article 27.** After the declaration of bankruptcy, no creditor shall be granted the right of pledge or entry in the mortgage register or entry in the register to secure the claim even if it had arisen prior to the declaration of bankruptcy.

## **Chapter II. Exclusions From the Bankruptcy Estate**

**Article 28.** § 1. Things not belonging to the bankrupt shall be excepted from the bankruptcy estate and released to a person entitled to them.

§ 2. Where the bankrupt has sold a thing being not his property and has received a counter-performance for it, the counter-performance shall be provided to the person entitled to the thing, if it is within the bankruptcy estate in separation from other assets.

§ 3. Where such a thing was transferred by the official receiver, the person entitled to it may demand the provision of the counter-performance received by the bankruptcy estate. He may also demand compensation if the official receiver has transferred the thing though knowing it to be liable to exclusion.

§ 4. The title to the counter-performance which the bankruptcy estate has not received shall be conveyed to the person entitled to the thing.

**Article 29** The person entitled to the thing may demand its release or the provision of the counter-performance, along with the return of expenses borne by the bankrupt or the bankruptcy estate for the maintenance of the thing or the provision of the counter-performance.

**Article 30.** A spouse of the bankrupt may demand the exclusion of things declared to be part of the bankruptcy estate if they constitute his or her separate property. The bankrupt's spouse may also demand the exclusion of things declared to be part of the bankruptcy estate provided there are grounds, pursuant to the provisions of the Family and Guardianship Code, to restrict the liability deriving from the joint property.

**Article 31.** § 1 The demand put forward in compliance with the provisions of the three preceding Articles shall be examined by the judge-commissioner after having heard the official receiver.

§ 2. Repealed.

§ 3 A decision dismissing the demand is not subject to complaint, though it shall not bar vindication of the demand by bringing an action against the bankruptcy estate.

## **Chapter III. Effects of the Declaration of Bankruptcy Upon the Bankrupt's Obligations**

**Article 32.** § 1. The bankrupt's cash obligations which have not become due for payment shall become due as from the date of declaration of bankruptcy.

§ 2 The non-cash property obligations shall turn into cash obligations as from the date of the declaration of bankruptcy and on that date shall become payable even though their performance were not yet due.

§ 3. The provisions of paragraphs 1 and 2 shall apply accordingly to debts secured by mortgage, pledge, registered pledge, entry in the register of ships or right of retention pertaining to assets included in the bankruptcy estate in regard to which the bankrupt is not a personally responsible debtor. Those debts shall be discharged out of the bankruptcy estate only to the degree in which the creditor has not been satisfied by his personal debtor.

**Article 33.** § 1. Interest on active debts due from the bankrupt shall not run in respect of the bankruptcy estate as from the date of declaration of bankruptcy.

§ 2. This shall not apply to the interest on active debts secured by mortgage, register, pledge or right of retention. However, such interest may be satisfied only out of the object of security.

**Article 34.** § 1. The set-off of the bankrupt's debt against the creditor's debt is admissible in a case where both those debts existed at the time of declaration of bankruptcy; even if payment of one of them were not due.

§ 2 At the set-off, the creditor's debt shall be fixed at the aggregate amount, and the bankrupt's debt shall be fixed at the principal sum as from the date of declaration of bankruptcy. Where payment of the bankrupt's interest-free debt did not fall due on the date of declaration of bankruptcy, the amount to be set off shall be the sum reduced by statutory interest, though not in excess of six per cent, running from the date of declaration of bankruptcy till the maturity of payment, but not in excess of the amount due for two years running.

**Article 35** § 1. The set-off is inadmissible where the bankrupt's debtor has bought the asset by transfer or endorsement after the declaration of bankruptcy, or bought it within last year preceding the declaration of bankruptcy, though being aware of the grounds existing for the declaration of bankruptcy.

§ 2. The set-off is admissible, however, where the transferee has become the bankrupt's creditor by having paid off his debt which he had been liable for personally or by certain assets, and in a case where the transferee, when taking on the liability for the bankrupt's debt was unaware of the grounds existing for the declaration of bankruptcy. The set-off is always admissible where the assumption of liability occurred six months before the declaration of bankruptcy.

**Article 36.** The set-off is not admissible where the creditor has become the debtor to the bankruptcy estate.

**Article 37.** The creditor who wants to benefit by the right of set-off shall declare his intention to do so, but not after having submitted the claim.

**Article 38.** The bankrupt's offer, of which the bankrupt has not been informed by a notice of acceptance by the other party prior to the declaration of bankruptcy. shall have no effect upon the bankruptcy estate.

**Article 39.** § 1. Where a mutual contract made at the time of declaration of bankruptcy has not been performed either by the bankrupt or the other party, or has been performed only in part, the official receiver may either perform the contract and demand its performance from the other party or renounce the contract.

§ 2. On demand by the other party, the judge-commissioner shall set an appropriate time limit for the official receiver to present that party with a written statement whether he renounces the contract or demands its performance. Failure to present the statement within the set time limit shall be deemed to be a renunciation of the contract.

§ 3. The other party, being liable to provide a performance at an earlier time, may suspend the performance until the completing or securing of a counter-performance. This right is not vested in the other party where the party, whilst making the contract, was aware or should have been aware of the grounds existing for the declaration of bankruptcy.

**Article 40.** § 1. Where the official receiver renounces the contract, the other party has no right to the return of the performance provided even if the performance remains in the bankruptcy estate but he may submit to the bankruptcy estate his active debt due for the performance provided and for the loss sustained.

§ 2. In the case of contracts intended only to benefit from a difference in price the indemnity shall not be claimed:

**Article 41.** § 1. The vendor may claim the return of a piece of movable property - not excluding securities - sent to the bankrupt without getting the price, where the said piece had not been taken over prior to the declaration of bankruptcy by the bankrupt or a person authorized by him to have disposal of the piece. The right to claim the return is also vested in the commission agent who has sent the piece of property to the bankrupt.

§ 2. The vendor or commission agent recovering the piece of property shall return all the costs which have been or are to be incurred, together with the advance payment received.

§ 3. The official receiver, however may retain the piece of property, if he pays or secures the price and costs due from the bankrupt. He may benefit by this right within a month from the date of setting up the claim for the return.

**Article 42.** The reservation under the contract for sale of the property right in favour of the vendor shall not expire due to the declaration of bankruptcy of the purchaser if the reservation is effective towards creditors under the provisions of civil law.

**Article 43.** § 1. An order and commission given by the bankrupt shall expire on the date of declaration of bankruptcy. An active debt arising out of the loss incurred through that may be submitted to the bankruptcy estate.

§ 2. An order and commission given to the bankrupt may be revoked as from the date of declaration of bankruptcy without indemnity.

**Article 44.** § 1. A contract of agency shall expire as from the date of declaration of bankruptcy of one of the parties.

§ 2. In the case of bankruptcy of the principal, the agent is entitled to submit to the bankruptcy estate his claim arising out of the loss incurred due to the expiration of the contract.

**Article 45.** Repealed.

**Article 46.** Repealed.

**Article 47.** § 1. In the case of declaration of bankruptcy of the lender or usufructuary, the contract of lending for use, where the piece of property has already been released, shall be immediately dissolved on demand of one of the parties.

§ 2. Where the thing has not yet been released, the contract shall be deemed as not having been performed.

**Article 48** In the case of bankruptcy of one of the parties, the contract of loan shall be deemed as not having been performed if the object of loan has not yet been released.

**Article 49.** A rent for hire of a movable taken by the bankrupt in advance, for a period longer than six months running from the date of the declaration of bankruptcy, prior to the declaration of bankruptcy, shall have no effect on the bankruptcy estate.

**Article 50.** § 1. The contract of lease or tenancy of the bankrupt's real estate shall remain in force where the object of contract, prior to the declaration of bankruptcy has been taken over by the lessee or tenant.

§ 2. The rent for lease for a period of over three months, and the rent for tenancy for a period of over six months in both cases running from the date of declaration of bankruptcy, taken by the bankrupt in advance prior to the declaration of bankruptcy, as well as the disposal of such rents, shall have no effect on the bankruptcy estate

§ 3 The sale pending the bankruptcy proceedings, of real estate by the official receiver, has the same effect in respect of a contract of lease or tenancy as the sale in the execution proceedings. .

**Article 51.** § 1. Each party may renounce the contract of lease or tenancy of real estate, concluded by the bankrupt as lessee or tenant, where by the time of declaration of bankruptcy the object of lease or tenancy had not been taken over by the bankrupt. A statement of renunciation must be made within 14 days from the date of declaration of bankruptcy.

§ 2. The renunciation of a contract does not involve the liability to indemnify.

§ 3 In a case where the object of lease or tenancy had been by the time of declaration of bankruptcy, taken over by the bankrupt, the official receiver may dissolve the lease or tenancy by notice of termination given six months in advance, if the contract concerns real estate in which the bankrupt's enterprise was run and in other cases - with the observance of the statutory period of notice. Those periods shall apply only where the stipulated periods of notice are not shorter.

§ 4. The dissolution shall not be effected before the time for which the rent was paid in advance has elapsed.

§ 5. The lessor or lessee is vested with the right of indemnity due to the dissolution of a contract of lease or tenancy prior the time limit determined by the contract, though covering a period not longer than two years.

**Article 52.** Where the spouses have concluded the marriage settlement in the course of their marriage claims under such a settlement may be admitted only where it was concluded at least two years before the declaration of bankruptcy.

#### **Chapter IV. The Effect of Declaration of Bankruptcy on Property Relations Between the Spouses**

**Article 53.** § 1. In the case of bankruptcy of one of the spouses, in a marriage where a property co-ownership of spouses or proper attained by them jointly has been established; the property co-ownership shall belong to the bankruptcy estate.

§ 2. The above provision applies respectively whereby terms of the marriage settlement, the co-ownership has been confined to the fixed part of the estate.

#### **Chapter V. Ineffectiveness of and Action Against the Bankrupt's Acts**

**Article 54.** § 1. Gratuitous acts in law performed by the bankrupt within a year preceding the presentation of the bankruptcy petition have no effect upon the bankruptcy estate.

§ 2. Ineffective, too, are a security and the payment of a debt not yet due, effected by the bankrupt within two months before the presentation of the said petition. However, any person who has received the payment or security, may, by way of an action or plea, demand that these acts be declared effective, if during their performance he was unaware of the grounds existing for the declaration of bankruptcy.

**Article 55.** § 1. The bankrupt's acts in law performed under a bilateral contract within six months preceding the presentation of the bankruptcy petition jointly with the spouse, relative or relation in direct line, lateral relative or relation by affinity up to the second degree inclusive or an adoptee or adoptive parent - have no effect up on the bankruptcy estate.

§ 2. The above provision shall apply respectively to acts in law done by the bankrupt, being a company, together with his co-partners and representatives.

**Article 56.** Moreover, the provisions of the Civil Code and the following provisions apply respectively to lodging an appeal against the bankrupt's acts in law prejudicial to the creditors.

**Article 57.** § 1 The right to bring an action vests only in the official receiver. The official receiver shall not be bound to pay the court fees in dealing with those matters.

§ 2. The right to bring an action shall expire in two years from the date of declaration of bankruptcy in the case where it has not expired earlier according to the provisions of the Civil Code. The two-year time limit shall not apply where the demand to declare the act ineffective was submitted by way of objection.

**Article 58.** § 1. The official receiver may replace the plaintiff in an action brought by the creditor against the bankrupt's acts. In such a case, where the bankrupt is also the defendant, the proceedings against him shall be discontinued after the decision declaring bankruptcy has become valid

§ 2. The official receiver shall reimburse the creditor, from means of the recovered part of the bankrupt's estate, for the costs of proceedings borne by him.

§ 3. In the case of discontinuance or quashing the bankruptcy proceedings prior to the conclusion of the court action, the creditor who has brought it may continue the proceedings by resuming it at the current stage of its advancement.

§ 4. The creditor who, by virtue of the court's order declaring the bankrupt's acts ineffective, has received any satisfaction prior to the declaration of bankruptcy, is not bound to release to the bankrupt's estate anything he has received

**Article 59.** § 1. Where an act performed by the bankrupt, even if it has arisen out of the creditor's suit, is ineffective, every asset by which the bankrupt's estate has been reduced, or which has not entered the estate owing to that act, must be released to the bankrupt's estate, and where the release in kind is not possible, it shall be released in money equivalent.

§ 2. In those cases the counter-performance of a third party must be returned to the party if it is included in the bankruptcy estate, separate from other assets, or if the estate has been enriched by the counter-performance. Where such conditions do not exist, the third party is entitled to submit the claim thus arising to the bankruptcy estate.

## **Chapter VI. Effect of Bankruptcy Upon Actions Pending**

**Article 60.** An action concerning property which constitutes part of the bankruptcy estate may be brought and carried on only by the official receiver or against him.

**Article 61.** The property for which the action is pending shall be deemed excluded from the bankruptcy estate where the official receiver has stated he will not take part in the proceedings in place of the bankrupt.

**Article 62.** The proceedings in the case against the bankrupt before the declaration of bankruptcy for a debt which qualifies to be submitted to the bankruptcy estate may be instituted against the official receiver, though only where the judge-commissioner in the bankruptcy proceedings has not recognised the debt, or, due to an objection, the court has refused to recognise the debt.

**Article 63.** § 1. Executive proceedings instituted before the declaration of bankruptcy against the bankrupt in search for his personal debt shall be suspended as from the date of declaration of bankruptcy. They shall be discontinued by operation of law after the decision declaring bankruptcy has become valid.

§ 2 The amounts which are received through suspended execution proceedings but have not yet been released, shall be transferred to the bankruptcy estate.

## **TITLE III. BANKRUPTCY PROCEEDINGS**

## Chapter I. Proceedings in General

**Article 64.** Upon the declaration of bankruptcy, further proceedings shall be continued in that court which has declared bankruptcy.

**Article 65.** § 1. Where the proceedings were taken in several courts having jurisdiction, the case shall be heard by the court which was the first one to make the decision declaring bankruptcy.

§ 2. If, pending the proceedings, it appears that another court has jurisdiction, the case shall be transferred to that court. The court decision directing to transfer the case is not subject to complaint. That order is binding on the court to which the case has been transferred. The acts performed in the court not having jurisdiction in the case shall remain in force.

**Article 66.** A court having material jurisdiction in the seat of the court in which the bankruptcy proceedings are pending has general jurisdiction in actions against the bankruptcy estate.

**Article 67.** § 1. After the declaration of bankruptcy the acts within the bankruptcy proceedings shall be administered by the judge-commissioner, except for the acts within the court's scope of duty.

§ 2. The court may charge a district court which is seated in another place with the duties of a judge-commissioner if it is necessary in respect of the place in which the bankrupt's enterprise, domicile seat or estate are situated.

§ 3. The court shall hear the case by a panel of three judges.

§ 4. The judge-commissioner shall not be on the panel of the ruling court which hears the complaint against the decision by the judge-commissioner.

**Article 68.** The provisions of the Code of Civil Procedure together with the alterations and amendments provided for under this Law shall apply respectively to the bankruptcy proceedings, not excepting the proceedings for the declaration of bankruptcy.

**Article 69.** The court shall adjudicate at a closed session unless this Law provides otherwise.

**Article 70.** Copies of pleadings in respect of bankruptcy shall also be served on the official receiver.

**Article 71.** There shall be no stay in the bankruptcy proceedings.

**Article 72.** § 1. In the event of the bankrupt's death, his heir is entitled to take part in the proceedings. Where the heir has not taken the possession of the inheritance, or is not known to the court, on petition by the official receiver shall appoint the trustee in bankruptcy.

§ 2. Means of compulsion shall not be applied towards the heir and trustee in bankruptcy.

§ 3. Taking part in the bankruptcy proceedings is not tantamount to acceptance of an inheritance.

**Article 73.** In cases where it is necessary to hear the bankrupt, the official receiver, creditor or member of the committee of creditors, it shall be done according to circumstances - either by making a record in the presence or absence of other interested persons, or by a declaration in writing.

**Article 74.** Where the official receiver in the exercise of his duties deems it necessary to ascertain some circumstances by taking evidence, he shall apply to the judge-commissioner for starting the proceedings to produce evidence. Where the application is allowed, the judge-commissioner shall take such proceedings pursuant to the provisions of the Code of Civil Procedure.

**Article 75.** The judge-commissioner may - where necessary - demand the creditor on whose petition the bankruptcy was declared to make an advance on the costs of further proceedings.

**Article 76.** § 1. Decisions by the judge-commissioner, where they have not been announced, shall be served on the official receiver and the persons they concern.

§ 2. The court's decisions must always be served, unless they were given at the trial.

§ 3. The court's decisions relating to all the creditors shall not be served on individual creditors.

§ 4. Where the proceedings pertain to a declaration of bankruptcy of a State enterprise the court decision shall also be served upon the founding organ and an or an authorized to represent the State Treasury.

§ 5. The court decision which is subject to the means of recourse must be substantiated in a written form simultaneously with the making of the decision.

**Article 77.** Unless this Law provides otherwise, a decision made by the judge-commissioner is subject to complaint lodged within 7 days to the district court conducting the proceedings; the court shall decide, having heard - if necessary - the official receiver, members of the committee of creditors, the bankrupt and the creditor concerned.

**Article 78.** Unless this Law provides otherwise, a decision made by the first instance court shall be subject to complaint.

**Article 79.** The time for applying means of recourse runs from the date of announcement or service of the decision. For creditors who have not been notified of the decision, the time runs from the date of announcement of the conclusion of the decision and where the announcement is not mandatory under this Law - from the date the decision was laid out in the court secretariat.

**Article 80.** Complaints regarding the court executive officer's and notary's acts, pending the proceedings, shall be lodged within 7 days from the date of conclusion of those acts.

**Article 81.** § 1. The announcements provided for under this Law shall be displayed in the court house and published in at least one popular daily newspaper unless this Law provides otherwise.

§ 2. At the request of the official receiver, the judge-commissioner may order that the announcement be published also in other domestic and foreign dailies.

§ 3 On demand of the bankrupt or creditor, the announcement shall be published, at their expense, in the dailies they name.

**Article 82.** § 1. The security in the cases provided for under this Law shall consist in placing on court deposit of an adequate sum of money in cash, stocks and bonds, or savings-bank books of institutions in which, under the operative provisions, funds of minors may be kept.

§ 2. Whether an amount deposited by way of security is to be spent shall be decided by the judge-commissioner who shall have heard the official receiver and interested persons.

§ 3 The provisions of the preceding paragraphs do not apply to the security for performance of an arrangement.

**Article 83.** The money which belongs to the bankruptcy estate shall be deposited, with the consent of the judge-commissioner, in an interest-bearing bank account or placed on the court deposit, unless it is to be expended forthwith.

**Article 84.** The records of the proceedings shall be accessible to the participants in the proceedings and any person who has satisfactorily substantiated before the court the need to inspect them. Such persons may make out and receive copies and extracts from the records.

**Article 85.** § 1. The provisions concerning the bankrupt's rights and duties apply respectively to partners liable for the company's obligations without limitation, representatives of a legal person, liquidators of the company, or a legal person. The provisions on means of compulsion against a bankrupt shall also apply to those persons; such means may be applied to all or some of those persons.

§ 2. In the case where the bankrupt who is not a legal person cannot appear in the proceedings owing to absence of the representative or liquidator, the organ competent as regards their removal, may instead of appointing new representatives, appoint the bankrupt's proxy for the duration of the bankruptcy proceedings. The judge-commissioner and official receiver shall be notified of the appointment of the proxy.

§ 3. The bankrupt's representative referred to under paragraph 2 the liquidator and proxy shall be entitled to remuneration in the amount fixed by the judge-commissioner on motion by the organ competent as regards the appointment of the representative or proxy. The remuneration shall be paid out of the bankruptcy estate funds and accounted as part of the costs of the bankruptcy proceedings.

§ 4 If the representative or liquidator was removed after the declaration of bankruptcy and no new representative or proxy has been appointed, letters and notices directed to the bankrupt shall be put on court files, unless the judge-commissioner finds it necessary to appoint the trustee in bankruptcy charged with conducting the bankrupt's affairs. The trustee in bankruptcy shall be appointed on the judge-commissioner's motion, by the court conducting the bankruptcy proceedings in the relevant case.

**Article 86** § 1. The creditor is not entitled to the reimbursement of the costs of the acts he has performed in the bankruptcy proceedings. However, he shall be reimbursed, where

the bankrupt's estate Funds suffice to do so, for the advance on the costs of proceedings which he has deposited by order of the court or judge-commissioner.

§ 2. The bankruptcy estate may not require of the creditor the reimbursement of costs borne due to the acts performed by the creditor in the bankruptcy proceedings.

## **Chapter II. Judge-commissioner**

**Article 87.** § 1. The judge-commissioner conducts the course of proceedings, inspects the acts administered by the official receiver and specifies the acts the official receiver must not perform without his special consent or the consent of the committee of creditors.

§ 2. Moreover the judge-commissioner shall administer other acts he is charged with under this Law.

**Article 88.** The judge-commissioner settles complaints regarding the court executive officer's and notary s acts in the bankruptcy proceedings. A decision by the judge-commissioner is not subject to complaint.

**Article 89.** § 1. The judge-commissioner has, within his authority, the powers and responsibilities of the court and the presiding judge.

§ 2. It is the duty of all offices and public institutions to render assistance to the judge-commissioner in carrying on his functions.

## **Chapter III. The Official Receiver**

### **Division 1. General Provisions**

**Article 90.** § 1. The official receiver, by operation of law takes possession of the bankruptcy estate, administers it and conducts its liquidation.

§ 2 The official receiver shall perform his duties pertaining to the statistical recording specified by the President of the Central Statistical Office, pursuant to the provisions on public statistics, within the scope of administration and liquidation of the bankruptcy estate.

**Article 91.** § 1. The judge-commissioner may, at the request of the official receiver appoint persons whom he will charge with the administration of a part of the bankruptcy estate which constitutes a separate economic entity. A decision by the judge-commissioner is not subject to appeal.

§ 2. The administrator of a separate estate performs his duties under the supervision of the official receiver and shall abide by his orders.

**Article 92.** Prior to the commencement of his duties, the official receiver and administrator of a separate estate shall deliver an assurance before the judge-commissioner to perform their duties conscientiously.

**Article 93.** At the request of the official receiver, the judge-commissioner may appoint, where necessary, a deputy official receiver or administrator of a separate estate, particularly so where acts are to be performed in another judicial district. Decisions by the judge-commissioner are not subject to complaint.

**Article 94.** Putting the official receiver or administrator into possession of the bankruptcy estate shall be carried out, where necessary, by the court executive officer in virtue of a decision appointing the official receiver or administrator.

**Article 95.** The official receiver is under an obligation to perform appropriate acts to record the decision declaring bankruptcy in land and mortgage registers and other books and registers where the bankruptcy estate is recorded.

**Article 96.** § 1. The official receiver shall give notice of the bankruptcy to the Treasury Department, the Social Insurance Institution and the creditors whose address is known.

§ 2. The official receiver shall notify railway port, post and telegraph offices, of the declaration of bankruptcy. Those offices shall serve correspondence and any dispatches addressed to the bankrupt on the official receiver or on his request - on the administrator of a separate estate. The bankrupt has the right to inspect the correspondence. The official receiver shall release to the bankrupt the correspondence and dispatches which do not concern the bankruptcy estate, or whose retention is not necessary due to the information contained therein.

§ 3. The official receiver shall give notice of the bankruptcy to the banks and institutions where the debtor keeps safes. or money deposits, or other assets.

**Article 97.** § 1. The official receiver may require the necessary information about the bankrupt's assets from offices, institutions or persons holding that information.

§ 2. The official receiver may use the assistance of other persons within the scope of their professional qualifications.

**Article 98.** The official receiver may, with leave of the judge-commissioner, give the bankrupt paid employment in running the enterprise.

**Article 99.** § 1. The official receiver shall submit to the judge-commissioner at dates set by him, at least once per three months, reports on the duties he has performed and with duly substantiated financial accounts.

§ 2. The administrator of a separate estate shall submit such reports to the official receiver at dates set by him, and the official receiver shall present them together with his own respective report, to the judge-commissioner.

§ 3. On conclusion of those acts the official receiver and administrator shall draw up a final report.

§ 4. The reports shall be examined by the judge-commissioner upon hearing, where necessary and possible the official receiver, the administrator the bankrupt and members of the committee of creditors.

§ 5. The financial accounts are approved or rejected by the judge-commissioner.

**Article 100.** The judge-commissioner may admonish the official receiver and administrator neglecting their duties, and, where this proves to be ineffective may impose a fine on them of up to one thousand zlotys, which may be deducted from their remuneration.

**Article 101.** § 1. Where the official receiver performs his duties properly, the court may appoint another official receiver in his place.

§ 2. The judge-commissioner may remove the administrator of a separate estate in the case where the administrator performs his duties improperly.

§ 3. Cases provided for under the preceding Articles are not subject to complaint.

**Article 102.** The official receiver and administrator are liable for damage caused by unconscientious performance of their duties.

## **Division 2. Sealing and Inventory**

**Article 103.** § 1. The official receiver, at his own discretion or by decision of the judge-commissioner, shall proceed to seal the whole or part of the bankruptcy estate. The sealing must be done by the court executive officer; or

§ 2. Movables held by a third party may be sealed only when the party expressly consents to that.

**Article 104.** The seals shall be removed by the official receiver when an inventory is taken or by order of the judge-commissioner.

**Article 105.** § 1. The official receiver shall draw up an inventory of the bankruptcy estate and make its assessment in the shortest possible time though not later than one month from the date of appointment of the official receiver. Where that time limit cannot be complied with owing to the extent

of the bankruptcy estate or other essential difficulties, the judge-commissioner may, on the motion of the official receiver, fix a longer time limit for the performance of those acts.

§ 2. The inventory shall be drawn up by the official receiver, or by his order, by the court executive officer or notary. The bankrupt and members of the committee of creditors must be given notice of the date of taking the inventory. They may be resent at the inventory

§ 3. The official receiver shall attach to the inventory relevant notes on the position of the estate including those on the legal status of real estate and movables held by the bankrupt and a plan for the bankruptcy management and plan to incur expenses for the covering of costs of bankruptcy proceedings.

**Article 106.** Compulsory opening up of closed premises and closets, searching things belonging to the bankrupt, his flat and closets or searching the garments being worn by the bankrupt, shall be carried out by the court executive officer by order of the official receiver.

**Article 107.** The person holding the things belonging to the bankrupt, even by virtue of the right of pledge, right of retention, or by another title, is liable to notify the official receiver of if and by order of the receiver, court executive officer or notary, to present the things for assessment and inventory.

**Article 108.** On the basis of the inventory, other documents, and the assessment, the official receiver shall make up a balance sheet or rectify the balance sheet submitted by the bankrupt.

**Article 109.** The official receiver shall submit the inventory and balance sheet to the judge-commissioner. Where the time limit required for the submission of those documents has been extended, the official receiver shall present to the judge-commissioner, within a month from the date of declaration of bankruptcy, a general report in writing on the condition of the bankruptcy estate and prospects for the satisfying of creditors. The submission of the report shall not release the official receiver from the obligation to follow up with the submission of the inventory and the balance sheet.

### **Division 3. Liquidation of Assets of the Bankruptcy Estate**

**Article 110.** § 1. After taking the inventory and drawing up the balance sheet, or submitting the report, the official receiver shall carry out liquidation of the bankruptcy estate.

§ 2. The judge-commissioner may stay the liquidation until the decision declaring bankruptcy becomes valid or where the bankrupt has petitioned for having a scheme of arrangement with creditors granted. In the case where the arrangement is granted, the judge-commissioner, on the bankrupt's demand shall stay the liquidation.

**Article 111** Prior to the commencement of the liquidation, the official receiver may sell the movables to the extent it is necessary to satisfy the costs of proceedings. Moreover, the official receiver may sell those movables which are apt to decay quickly or which, due to delays in the sales would markedly fall in value, or the storing of which would involve costs markedly exceeding their value.

**Article 112.** The liquidation shall be carried out by selling the movables and real estate, by exacting payment of claims from the bankrupt's debtors and exercising his other property rights which are part of the bankruptcy estate.

**Article 113.** § 1. The bankrupt's enterprise shall be sold, if possible in its entirety. Where such is the case, the transferee may use, only with the bankrupt's permission, the bankrupt's business name bearing his name.

§ 2. The acquirer of the enterprise shall not be liable for the bankrupt's debts, including those secured by mortgage, pledge, registered pledge and entry in the register of ships.

§ 3. Prior to the sale of a State enterprise or its establishment, the official receiver shall hear the opinions of the founding organ.

**Article 114.** To run the bankrupt's enterprise for a period longer than three months from the date of declaration of bankruptcy, and to lease out the enterprise or real estate assigned to be used for running it the official receiver must first obtain leave of the court. Where the leave of the court concerns a State enterprise, the court, prior to the making of a decision, shall hear the opinion of the workers' council, the founding organ, and the or an authorized to represent the State Treasury. The court decision shall not be subject to complaint.

**Article 115.** § 1. The sale of a movable shall be done either by the official receiver by unrestricted sale with leave of the judge-commissioner, or by public auction. The auction shall be conducted on petition of the official receiver by the court executive officer or notary.

§ 2. If an object for sale is admitted to the stock exchange list, its sale may be handled by a sworn broker.

§ 3. Material objects at market price or quoted price shall be sold according to the quotation of the day by unrestricted sale but by public auction only where he unrestricted sale has not been possible to effect.

**Article 116.** § 1. The sale of a movable by public auction shall be done at one date without assessment, and the provisions of the Code of Civil Procedure shall not apply thereto.

§ 2. The auction procedure will be specified in detail by regulation of the Minister of Justice issued in agreement with the Minister of Industry and Trade and Minister of Treasury.

**Article 117.** § 1 Persons who have possession of things belonging to the bankruptcy estate by virtue of the right of pledge or retention must conduct the sale of those things in a manner prescribed by law. The time within which the sale is to be effected shall be fixed by the judge-commissioner on petition by the official receiver. Where the sale has not been effected within the set time limit or has proved impossible, the official receiver shall demand the release of those things for their selling.

§ 2. A thing which is not held by a person vested with the right of pledge or retention shall be sold by the official receiver.

§ 3. The persons vested with the right of pledge or retention must be given notice of the place and time of the sale, unless a delay is prejudicial.

§ 4. An object of registered pledge belonging to the bankruptcy estate and being in possession of the official receiver shall be sold by public auction under the provisions on execution of the Code of Civil Procedure or by consent of the judge-commissioner by unrestricted sale. The price obtained shall cover the costs of sale and then the claims secured by registered pledge on the things sold shall be satisfied. The remaining part thereof shall be included in the bankruptcy estate in order to be divided in compliance with the provisions of this Law regarding the distribution of funds of the estate. The provisions of paragraph 3 shall apply accordingly.

§ 5. The price obtained from the sale, whether done by the official receiver or a person entitled to do so by the right of pledge or retention, shall be included in the bankruptcy estate. This shall not apply to the price obtained from the sale of an object of registered pledge.

**Article 118.** § 1. An immovable, mining property, mining rights, railways, a sea merchant vessel or an inland vessel registered in the register of ships shall be sold by public auction pursuant to the provisions of the Code of Civil Procedure relating to execution. Yet with leave of the committee of creditors, they may be sold by unrestricted sale.

§ 2. The price obtained from the sale shall be included in the bankruptcy estate and be subject to distribution according to the provisions of this law regarding the distribution of bankruptcy estate funds.

§ 3. The Minister of Justice shall determine by regulation the manner of conducting the unrestricted sale referred to under paragraph 1.

**Article 119.** Where, pursuant to the provisions of the preceding Article, the estate is to be sold in accordance with the provisions of the Code of Civil Procedure, the power to start the execution proceedings or joining in the execution proceedings already started lies with the official receiver by virtue of the decision declaring bankruptcy.

**Article 120.** § 1. The sale completed under the bankruptcy proceedings has the same legal effect as the sale made within the execution proceedings.

§ 2. However, the satisfaction of persons entitled, including the creditors whose debts have been secured by things included in the bankruptcy estate, shall be given according to the provisions of this law.

§ 3. The purchaser of real estate sold by unrestricted sale is liable for land tax dues pursuant to the provisions of Articles 136 and 137 of the Tax Ordinance.

**Article 121.** § 1. On the official receiver's petition granted theretofore by the committee of creditors, the general meeting of creditors, by a majority of three fourths of the aggregate value of claims, may exclude from the bankruptcy estate the claims and rights whose existence or feasibility of performance is questionable. The bankrupt may freely dispose of those claims and rights.

§ 2. A creditor may cast his vote also in a written form, with his signature authenticated therein by the judge-commissioner, the court's secretary, notary or the competent organ of the relevant commune.

§ 3. The provisions of paragraphs 1 and 2 above shall apply respectively to the bankrupt's movables and real estate, unless they have been sold and none of the creditors has expressed his readiness to take them over on account of debts, at the price equivalent - as regards movables - to half of their assessed value, and - as regards real estate - two thirds of their assessed value.

#### **Division 4. Remuneration**

**Article 122.** § 1. The official receiver and administrator of a separate estate are entitled to remuneration for their activity and to the refund of their reasonable expenses borne to perform their duties.

§ 2. The remuneration shall be determined by the court according to the scope and difficulties involved in the performance by the official receiver and administrator of their duties.

**Article 123.** § 1. The amount of remuneration of the official receiver and administrator shall be provisionally determined by the court on the motion by the official receiver and submission by the judge-commissioner, within a month of the date of filing by the official receiver of the relevant inventory and balance sheet of the bankrupt. That amount shall

constitute the basis for advance payments as the relevant duties are completed. Along with those advance payments the court shall grant the refund of expenses.

§ 2. The final amount of remuneration shall be determined by the court upon presentation by the official receiver of the final report.

§ 3. The court's decisions in matters referred to under paragraph 1 shall not be subject to complaint.

§ 4. The remuneration of the official receiver and administrator shall not exceed 5 per cent of the bankruptcy estate fund or the multiple of the forecast average remuneration in the public sector.

§ 5. Where the official receiver has been charged with running a bankrupt's enterprise, the court may grant the official receiver remuneration of up to the double amount referred to under paragraph 4.

§ 6. The Minister of Justice shall determine, by regulation, detailed procedure of fixing the remuneration of the official receiver and administrator of a separate estate and the multiple of remuneration referred to under paragraph 4.

**Article 124.** The court shall rule on the remuneration and refund of expenses, having heard the official receiver, the committee of creditors and the bankrupt and having heard the administrator of a separate estate in the case where the remuneration or refund of the expenses borne is bound to be granted him,

**Article 125.** The official receiver and administrator shall forfeit the right to remuneration and refund of expenses out of the capital of the estate if they do not require them prior to the expiry of the time limit for pleas against the plan of the final distribution.

**Article 126 § 1.** The judge-commissioner shall appoint the committee of creditors if he deems it necessary.

§ 2. The judge-commissioner shall appoint the committee of creditors if the creditors holding one fifth of the aggregate value of claims which are acknowledged or found contingent, have so requested.

§ 3. The committee of creditors consists of three or four members and one or two deputy members appointed by the judge-commissioner. The judge-commissioner may recall the appointed members, if they do not fulfil their duties properly, and appoint others. The decision by the judge-commissioner is not subject to complaint.

**Article 127 § 1** The judge-commissioner shall appoint the committee members and their deputies from among the bankrupt's creditors whose claims are acknowledged or found contingent. Where the creditor is a legal person, the judge-commissioner may appoint one of the representatives of such a person.

§ 2. A creditor may refuse to assume the duties of the committee member or deputy member.

**Article 128 § 1.** Creditors holding at least one fifth of the aggregate value of claims which have been acknowledged or proved contingent may apply for a chance in the composition of the committee of creditors.

§ 2. The judge-commissioner shall grant such an application or submit it to the general meeting of creditors. If, at the meeting the application has been supported by the creditors holding at least four fifths of the aggregate value of claims acknowledged or proved contingent, the judge-commissioner shall change the composition of the committee pursuant to the resolution adopted by the meeting.

**Article 129.** Members of the committee of creditors shall perform their duties in person.

**Article 130. § 1.** The committee of creditors shall assist the official receiver, supervise his acts, examine the state of funds of the bankruptcy estate, grant permission to do acts which may be performed only with the committee's permission, and shall give opinions in other matters where the official receiver so demands.

§ 2. Each member of the committee of creditors and the committee as a whole, are entitled to submit their observations about the official receiver's activity to the judge-commissioner.

§ 3. The committee of creditors may require the official receiver to provide explanations, and has power to audit books and examine documents concerning the bankruptcy estate

§ 4. the committee shall submit reports to the judge-commissioner on the supervision of the acts of the official receiver and examination of the state of funds of the bankruptcy estate. The committee shall submit reports on other acts when it is required to do so by the judge-commissioner.

**Article 131.** § 1. The official receiver shall not perform the following acts without permission of the committee of creditors:

- 1) further running of the enterprise when it is intended to last no longer than three months from the date of declaration of bankruptcy;
- 2) allowing the bankrupt to stay on in the flat he occupies in an immovable belonging to the bankruptcy estate;
- 3) aiding the bankrupt and his family and discontinuing further aid;
- 4) selling by unrestricted sale real estate, mining property, resin mining rights, railways, sea merchant vessel and an inland vessel, registered in the register of ships
- 5) selling rights and claims;
- 6) contracting loans;
- 7) accepting or relinquishing inheritance;
- 8) executing a mutual contract made by the bankrupt or renouncing such a contract;
- 9) redeeming things held by a third party by virtue of pledge or right of retention;
- 10) recognising, disclaiming, and making an agreement on a contentious claim and submitting a dispute to the court of arbitration.

§ 1a. The official receiver shall promptly inform the manager of the voivodship labour office appropriate to the seat of the enterprise that the relevant permission has not been granted by the committee of creditors; an objection including reasons therefore may be filed with the court by the said manager within 10 days from the date of receiving the notice. By the time of resolving the objection, the official receiver shall be obliged to continue running the enterprise.

§ 2. If an act must be performed immediately and concerns a value not in excess on one thousand zlotys, the official receiver may perform it without permission of the committee.

§ 3. On demand of a person making a contract with the official receiver the judge-commissioner shall ascertain that permission of the committee of creditors has been granted, or the official receiver may make the contract without permission of the committee.

**Article 132** Where the committee of creditors has not fulfilled its duty within the time limit set by the judge-commissioner, the committee's act shall be completed by the judge-commissioner.

**Article 133.** The committee may conduct inspection of the official receiver's proceedings and examination of the state of funds of the bankruptcy estate by its individual members whom it shall authorise so to do.

**Article 134.** § 1. A meeting of the committee of creditors shall be called by the official receiver, who shall notify its members of the time and place of the meeting by registered post. The official receiver shall preside over but not vote at the meeting.

§ 2. A meeting concerning inspection of the official receiver's activities and examination of the state of funds of the bankruptcy estate may be summoned by the most senior member of the committee who shall also preside over the meeting. The official receiver shall also be summoned to the meeting.

**Article 135.** The committee of creditors may also be summoned by the judge-commissioner who shall then preside over the meeting but shall not vote at it.

**Article 136** § 1. Resolutions of the committee of creditors shall be adopted by a majority of votes

§ 2 The course of the committee's meeting shall be recorded in the minutes which are to be signed by persons present at the meeting. Any refusal to sign shall be stated in the minutes.

§ 3. Immediately after the meeting, the president shall send a copy of the minutes to the judge-commissioner or the official receiver if he was not present at the meeting.

**Article 137.** § 1 The judge-commissioner may suspend the execution of a resolution adopted by the committee of creditors if the resolution conflicts with the law, the public interest or the creditors' interests In such circumstances the judge-commissioner shall submit the case, within three days, to the court for adjudication.

§ 2. Members of the committee of creditors, the official receiver and the bankrupt shall be summoned to the court session at which the case is to be adjudicated.

§ 3. The court's decision shall not be subject to complaint.

**Article 138.** Members of the committee of creditors are not entitled to remuneration for their duties; they are entitled only to the refund of indispensable expenses. The decision to refund expenses shall be made by the judge-commissioner who shall have heard a member

of the committee of creditors and the official receiver. The decision by the judge-commissioner is not subject to complaint.

**Article 139.** Members of the committee of creditors are liable for a damage caused by unconscientious performance of their duties.

**Article 140.** Where the committee of creditors has not been appointed, the judge-commissioner shall perform their duties.

## Chapter V. Meeting of Creditors

**Article 142.** § 1. The judge-commissioner shall call the meeting of creditors by an announcement stating the date place and subject-matter of the debates.

**Article 141.** The judge-commissioner shall call the meeting of creditors:

- 1) where, pursuant to the provisions of this Law, a resolution of the meeting is required;
- 2) upon request of at least two creditors holding together not less than one third of the aggregate value of acknowledged claims;
- 3) in other cases - where he deems it necessary.

§ 2. The announcement must be given at least two weeks before the day of the meeting during which time copies of the announcement shall be served on the official receiver, members of the committee of creditors and the bankrupt

§ 3. Where the meeting has been adjourned, the judge-commissioner shall inform the participants about the new date and place of the meeting. An announcement shall not be issued.

**Article 143.** The judge-commissioner shall preside over the meeting but may not vote.

**Article 144.** The official receiver, members of the committee of creditors and the bankrupt, when summoned to provide explanations, must be present at the meeting.

**Article 145.** § 1. Creditors whose claims have been acknowledged are entitled to attend the meeting with a right to vote.

§ 2 Where a claim has been secured in any way, the judge-commissioner on petition by a creditor and having heard the bankrupt, if present, shall permit the creditor to attend the meeting and shall set the value by which the creditor's vote is to be recorded The judge-commissioner shall set the amount proportionately to the part of the claim which is likely not to be satisfied out of the object of security.

§ 3. Where a claim depends on a suspensory condition or has not yet been recognised but found continent, the judge-commissioner, on the creditor's petition, and having heard the bankrupt according to circumstances, shall also set the value by which the creditor s vote shall be recorded.

§ 4. A decision by the judge-commissioner granted pursuant to the provisions of the preceding paragraphs is not subject to complaint.

**Article 146.** Creditors having joint or several claims shall vote through one from among them.

**Article 147.** The creditor shall not have a right to vote by virtue of a debt which he has acquired by transfer or endorsement after the declaration of bankruptcy unless the transfer of the debt has been effected by his settling the debt, which he was liable for personally or with certain assets, the said debt resultant from the legal relationship entered into prior to the declaration of bankruptcy.

**Article 148.** Resolutions of the meeting, unless this Act provides otherwise, shall be adopted notwithstanding the number of persons taking part, by a majority of votes of creditors holding at least one fifth of the aggregate value of claims, the voters entitled being creditors qualified to attend the meeting.

**Article 149.** § 1. The judge-commissioner may grant a stay of execution of a resolution adopted by the meeting, if the resolution conflicts with the law. In such circumstances the judge commissioner shall submit the case to the court, within three days, for decision

§ 2. Members of the committee of creditors, the official receiver and the bankrupt shall be summoned to the court session where the case is to be adjudicated. The court may also hear the creditors who appear at the session.

§ 3. The court's decision shall not be subject to complaint.

## Chapter VI, Submission and Establishment of Debts

## Division 1. Submission of the Statement of Debt

**Article 150.** § 1. Each creditor of the bankrupt who wishes to take part in acts connected with bankruptcy proceedings participation which requires the establishment of the debt, shall submit to the judge-commissioner within the fixed time limit, a statement that he is holding an active debt even if it is secured by mortgage, pledge, or in another way or even if it qualifies for setting off.

§ 2. The provision of paragraph 1 shall apply respectively to debts secured by mortgage, pledge, registered pledge entry in the register of ships, or right of retention pertaining to things included in the bankruptcy estate in regard to which the bankrupt is not the personal debtor.

**Article 151** The statement must be made in writing. The claimant shall enclose with the statement. original or certified copies of documents which justify the statement.

**Article 152.** § 1. The statement of claim shall contain:

- 1) forename, surname and business name of the creditor, his place of residence or seat;
- 2) the claim, together with incidental dues, and value of the non-cash claim;
- 3) evidence of the claim;
- 4) the category into which the debt is to be qualified;
- 5) the securities attached to the debt, and a declaration stating the likely amount in which the debt will not be met from the security, as well as the declaration whether the creditor waives the security in full or in part;

6) advancement of the proceedings. if legal or administrative proceedings are pending in respect of the debt

§ 2. A creditor domiciled abroad shall set for himself a residence address for service in Poland.

## Division 2. List of Debts

**Article 153.** After the time limit for stating debts expires the official receiver shall promptly make a draft list of debts. Prior to the making of the draft the official receiver shall call the bankrupt to submit a statement within a set time limit, in respect of the debts submitted, stating in particular whether he has acknowledged them.

**Article 154.** § 1. The official receiver shall enter notes in separate columns of the draft list, stating: whether a debt can be acknowledged, in what amount and category; whether the debt is secured; whether it is subjected to any condition; whether the creditor is entitled to a set-off; how far advanced is the legal or administrative proceeding concerning the debt submitted its security or right to set off. He shall also state in a separate column, whether he denies, fully or partly, the statements by the claimant.

§ 2. In a separate column the official receiver shall quote the statements submitted and their substantiation given by the bankrupt.

**Article 155.** A non-cash debt shall be recorded on the list in the amount of the value as at the date of declaration of bankruptcy.

**Article 156.** Where, at the date of declaration of bankruptcy, an interest-free claim had not been settled, the amount reduced by the statutory interest not exceeding six per cent accrued from the date of declaration of bankruptcy till the date of settlement, but not in excess of two years, shall be recorded in the list.

**Article 157.** A claim of the bankrupt's co-debtor or guarantor due by the right of recourse shall be recorded in the list to the amount by which the co-debtor or guarantor has satisfied the creditor.

**Article 158.** § 1. Recorded on the list as the value of the right to repeated performance of fixed duration shall be the total amount of performances, for the aggregate time of their duration, reduced by the statutory interest not exceeding 6 percent, for the period from the date of declaration of bankruptcy till the date of settlement of each future performance.

§ 2. Such a right vested for the lifetime of a person entitled or another person or not strictly defined in terms of duration, shall be recorded in the list in the amount equal to the value of that right

§ 3. Where a contract for the right to repeated performance stipulates a fixed amount of redemption, the amount shall be recorded as the value of the right.

**Article 159.** A debt secured by mortgage or in the register by the bankrupt's assets abroad shall be recorded on the list if evidence is submitted that the entry on security has been cancelled.

**Article 160.** A debt expressed in foreign currency shall be recorded in the list after having been converted into domestic currency, regardless of the time for payment at the Warsaw Stock Exchange quotation of the day of declaration of bankruptcy or in the absence of such quotation - according to the average rate of exchange of foreign currencies in the Polish zloty fixed by the President of the National Bank of Poland, and in the absence of such a rate - at the day's market price.

**Article 161.** § 1. The official receiver shall submit the draft list of debts to the judge-commissioner.

§ 2. The judge-commissioner shall summon the official receiver and the bankrupt to a court session and having heard them shall make a decision to acknowledge or to refuse the claim in full or in part.

§ 3. Each person interested may inspect the thus made list of claims in the court secretariat, and the judge-commissioner shall make a public announcement about such an opportunity. Where the proceedings pertain to a State enterprise, an announcement shall be made to the founding organ and an organ authorized to represent the State Treasury of the establishment of the list of debts.

**Article 162.** § 1. Within 14 days from the date of the announcement on the establishment of the list of claims an objection may be lodged with the court: to the acknowledgement of the debts by a creditor who has advanced his claim in the manner and within the time limit prescribed by law; to the refusal - by a person who has been refused acknowledgement of the debts.

§ 2. The official receiver and the bankrupt are entitled to lodge an objection within the same time limit if the list established by the judge-commissioner is not conformable with their petitions or statements. In the case of bankruptcy of a State enterprise also the founding organ authorized to represent the State Treasury may take objection.

§ 3. The objection shall include facts and evidence to substantiate it. An objection which does not meet those requirements, or a delayed objection, shall be rejected by the court.

## **Chapter VII. The Bankrupt's Arrangement With Creditors**

### **Division 1. General Provisions**

**Article 171.** After the establishing by the judge-commissioner of the list of debts, the bankrupt may make an arrangement with the non-preferential creditors.

**Article 172.** In the case of several bankrupts, each of them may make a separate arrangement binding only upon himself.

**Article 173.** Barred from the making of the arrangement shall be the bankrupt who:

- 1) is missing;
- 2) has been validly sentenced for committing an offence against the creditors which was connected with the bankruptcy.

**Article 174.** The arrangement is admissible only where a guarantee exists for the satisfaction of preferential creditors and creditors of the bankruptcy estate, or where they have agreed to the making of the arrangement.

**Article 175 § 1.** The bankrupt's petition for permission to make the arrangement shall include arrangement proposals and their substantiation.

§ 2. The proposals shall be identical in respect of all the creditors, except the cases where an individual creditor has expressly agreed to less favourable conditions.

§ 3. In the proposals the bankrupt may grant special benefits to the creditors having small active debts.

**Article 176.** § 1. The petition for permission to make the arrangement in the case of bankruptcy of a State enterprise may also be submitted by the founding organ and an organ authorized to represent the State Treasury.

§ 2. The petition provided for under paragraph 1 may include the demand to have the arrangement proceedings preceded by a public invitation for tenders as to the further running of the enterprise, its transformation or utilisation of its productive capacity. The tenders thus made may be reviewed at the making of the arrangement.

**Article 177.** The judge-commissioner shall reject the petition if it bears no arrangement proposals. or if the bankrupt cannot be admitted to the making of the arrangement.

**Article 178.** The judge-commissioner, having heard the official receiver and members of the committee of creditors, may refuse the petition for permission to make the arrangement:

- 1) where the bankrupt during the last five years has already had bankruptcy declared;
- 2) where the bankrupt has already made an arrangement in the course of bankruptcy or arrangement proceedings;
- 3) where the bankrupt has not kept the books, as required, or kept them unconscientiously;
- 4) where the bankrupt has not presented a bankruptcy petition within the described time limit;
- 5) where the bankrupt has refused to co-operate in establishing the state of assets of the bankruptcy estate.

**Article 179** The decision by the judge-commissioner permitting the bankrupt to make the arrangement is not subject to complaint.

## **Division 2. Making of the Arrangement**

**Article 180.** § 1. In granting permission to make the arrangement the judge-commissioner shall set the date for holding the meeting of creditors to which the bankrupt, official receiver and creditors shall be summoned.

§ 2. The general meeting must be held within a month from obtaining by the bankrupt the permission to make the arrangement. Simultaneously, the judge-commissioner shall fix the time limit in which the official receiver shall submit his opinion in regard to the arrangement proposals.

§ 3. The date for holding the meeting shall also be made known by announcement. The announcement must inform, too, that the interested persons may acquaint themselves from the dossier of the proceedings, with the arrangement proposals and the official receiver's opinion.

§ 4 Copies of the petition containing the arrangement proposals shall be served upon the creditors.

**Article 181.** § 1. The arrangement proposals may be withdrawn until the commencement of the meeting of creditors, summoned to adopt the arrangement

§ 2. The summons to attend the meeting of creditors in the case of bankruptcy of a State enterprise shall be serve upon the founding organ and an organ authorized to represent the State Treasury also where they have made no application and arrangement proposals. Their consent is essential for the making of an arrangement.

**Article 182.** Where the arrangement proposals stipulate a security by a third party for the execution of the arrangement the bankrupt shall, prior to the commencement of the meeting, submit to the judge-commissioner that party's statement in writing that in the event of the arrangement being approved he will furnish a security. The signature of the person promising the security must be certified.

**Article 183.** In the case of unexcused non-appearance by the bankrupt or his representative at the meeting the judge-commissioner may refuse the petition for permission to make the arrangement.

**Article 184.** At the meeting of creditors, the official receiver shall submit the report, read out the arrangement proposals and present his opinion on them.

**Article 185** § 1. At the meeting of creditors the bankrupt and creditors may submit alterations and amendments to the arrangement proposals.

§ 2. The alterations and amendments submitted by the creditors may be discussed at the debates and may be put. to the vote if the bankrupt approves them.

§ 3. The alterations and amendments which give creditors greater benefits may be discussed at the debates and are put to the vote at the same meeting in other cases the judge-commissioner shall convene a new meeting which shall be held within a period not longer than one month.

§ 4. The notices of the new meeting shall provide all the creditors with the content of the amended proposals.

§ 5. At the reconvened meeting an alteration or amendment of a proposal is inadmissible.

**Article 186.** § 1. The arrangement shall be adopted if voted for by a majority of the creditors voting who represent together not less than two thirds of the general value of debts according to the list established by the judge.

§ 2. Not entitled to vote on the matter of making the arrangement are the bankrupt's spouse, his relative or relations in direct line, lateral relative or relation up to second degree inclusive, the bankrupt's adoptive parent or adoptive, and - where the bankrupt is a company or a partnership -- a partner or a shareholder being a creditor. Nor are other creditors entitled to vote if they take part in the meeting in virtue of the debts acquired from those persons upon the declaration of bankruptcy.

§ 3 The creditor may cast his vote also in writing. The creditor's signature shall be authenticated by the judge-commissioner, the court's secretary, notary or the competent organ of relevant commune.

**Article 187.** § 1. If the arrangement is not concluded due to the absence of one or both majorities required, the judge-commissioner, on application by the bankrupt, may adjourn the meeting depending on the circumstances, but for 14 days at the longest. The date of the next general meeting shall be announced by the judge-commissioner at the current meeting.

§ 2. The vote given previously by a creditor who has not appeared at the meeting shall retain validity at the computation of votes.

**Article 188.** § 1. The tenor of the arrangement shall be included in the minutes. The minutes must bear the names of creditors who vote for and against the arrangement.

§ 1 a. The official receiver shall promptly inform a manager of the voivodship labour office competent for the seat of the enterprise that a relevant permission has not been granted by the committee of creditors; an objection including reasons therefor may be filed at the court by the said manager within 14 days from the date of receiving the notice. By the time of answering the objection the official receiver shall be obliged to continue running the enterprise

§ 2. The minutes shall be signed by the judge-commissioner and the recorder.

**Article 189** If the arrangement has not been concluded the bankrupt is not deprived of the right to submit new arrangement proposals, but the judge-commissioner, having heard the official receiver and the committee of creditors, may refuse to grant renewed permission to make the arrangement.

### **Division 3. Approval of the Arrangement**

**Article 190.** § 1. The arrangement, once adopted by the meeting of creditors, requires approval by the court. The court shall adjudicate, having heard the persons whose explanations it deems necessary.

§ 2. If however, any of the creditors has made pleas, at the meeting or within 7 days after, against the arrangement, a court hearing shall be ordered. Summoned to the hearing shall be the creditor who has made the pleas the official receiver and the bankrupt, and in case of the bankruptcy of a State enterprise - the founding organ and organ authorised to represent the State Treasury.

**Article 191** The court shall refuse to approve the arrangement: 1) where the arrangement is inadmissible under the provisions of this Law;

2) if the meeting of creditors was summoned or the voting was conducted in contravention of the provisions of the present law, inasmuch as the contravention might have had a significant impact on the vote;

3) where the arrangement conflicts with decency or public order.

**Article 192.** Where the arrangement conditions are too disadvantageous to the creditors who have voted against the arrangement, the court may by virtue of objections of even one of those creditors, refuse to approve the arrangement.

**Article 193.** A decision made by the second instance court to refuse approval of the arrangement shall be subject to cassation.

#### **Division 4. Effects of the Arrangement**

**Article 194.** § 1. The arrangement shall be binding upon the creditors whose titles were derived from the bankrupt before the day of declaration of bankruptcy, whether or not they have submitted their claims to be part of the bankruptcy estate.

§ 2. The arrangement does not prejudice the rights of the creditor in respect of the bankrupt's co-debtor and guarantor, nor does it prejudice the rights derived from the pledge, the right of retention or rights secured by an entry in the land and mortgage register and other books and registers.

**Article 195.** Securities given by third parties to guarantee the performance of the arrangement shall not be used by creditors who prior to the making of the arrangement, had not submitted their claims to the bankruptcy estate.

**Article 196.** When the court's decision approving the arrangement becomes valid and when the obligations of the bankruptcy estate and the preferential debts have been satisfied and secured, the court shall make a decision to complete the bankruptcy proceedings.

**Article 197.** § 1. An extract from the list of debts, together with a copy of the valid court decision approving the arrangement shall constitute an executory title against the bankrupt. It shall also constitute an executory title against the person who has given a security for the performance of the arrangement provided a document certifying the security as given has been submitted to the court.

§ 2. The above shall not affect the active debts denied by the bankrupt.

#### **Division 5. Setting Aside of the Arrangement**

**Article 198.** § 1. If, following the arrangement, the bankrupt was validly sentenced for an offence consisting in that prior to the conclusion of the arrangement for the purpose of injuring the creditors he had hidden certain assets or had incurred apparent obligations, or made other apparent contracts; that he had granted or promise to grant the creditor a material benefit in return for acting to the detriment of other creditors in the course of the bankruptcy proceedings, or that he had kept the books untruthfully, damaged, concealed unlawfully altered or forged records and account books the court, on petition of creditors holding in aggregate at least one fourth of the general value of acknowledged claims, having conducted a trial, shall set aside the arrangement. In such a case the court shall resume the bankruptcy proceedings, provided there exists the bankrupt's adequate estate or the creditors have deposited an advance required by the court on the costs of proceedings. A petition for setting aside the arrangement shall be refused if it has been submitted after the lapse of two years from the date of valid approval of the arrangement.

§ 2. Where the bankrupt is not fulfilling the duties prescribed by the management the court, on a petition by the creditor, having conducted a trial, may set the arrangement aside with the effects provided for in the preceding paragraph. The court's decision dismissing the creditor's petition shall not be subject to complaint.

§ 3. Summoned to the hearing, in cases provided for in the preceding paragraph shall be the bankrupt and the creditors who have submitted the petition. Admitted to the hearing shall also be other creditors who shall appear there unsummoned.

§ 4. The court's decision setting the arrangement aside shall be made known by an announcement.

**Article 199** The setting aside of the arrangement for reasons other than those indicated in the preceding Article is inadmissible.

**Article 200** § 1. In the case of setting the arrangement aside the amounts paid out according to its stipulations shall not be refunded, and the existing creditors shall take part in the renewed proceedings with such a portion of their original active debts that corresponds to be unpaid amount due established under the arrangement.

§ 2. The securities given to guarantee the execution of the arrangement shall remain in force unless the terms of a security provide otherwise.

§ 3 The above provisions shall apply respectively where bankruptcy has been declared prior to the performance of<sup>p</sup>the arrangement made on the arrangement proceedings or on the previous bankruptcy proceedings.

**Article 201 § 1.** Subsequent creditors may also take part in the proceedings resumed following the setting aside of the arrangement yet, they are not entitled to be satisfied out of the securities provided for by the arrangement for the obligations incurred under it.

§ 2. The acts performed in the previous proceedings shall be repeated so far as they are necessary.

**Article 202.** Where the bankrupt has given some creditors benefits greater than those provided for by the arrangement, each creditor, within two years from the date of the valid approval of the arrangement, may demand jointly from the bankrupt and creditor who has gained a wrongful benefit that he should pay the amount by which the debt owing to the claimant has been reduced under the arrangement. The creditor who has gained the wrongful benefit is liable for it up to the full amount of that benefit.

### **Chapter VIII. Distribution of Funds of the Bankruptcy Estate**

**Article 203 § 1.** Upon establishing by the judge-commissioner of the list of debts, distribution of funds of the bankruptcy estate shall be conducted once or several times as the liquidation of the assets of the estate proceeds.

§ 2. The amounts due for the satisfaction of the claims, against which an objection has been taken, shall remain on the deposit with the court until the objection is settled.

**Article 204. § 1.** Dues to be satisfied out of the bankruptcy estate shall be paid out in the following order: ,

1) the costs of the bankruptcy proceedings and the costs of the arrangement proceedings conducted prior to the declaration of bankruptcy; the expenses of the administration and liquidation of the bankruptcy estate, not excepting taxes and other public tributes' dues for work and pensions due as indemnity for causing a disease, unfitness to work, disability or death support for the bankrupt and his family, and alimony dues he is encumbered with, as well as costs of the bankrupt's last disease and his funeral according to the standard which corresponds to local customs.

2) dues generated from the acts of the official receiver and administrator of a separate estate; dues under mutual contracts concluded by the bankrupt prior to the declaration of bankruptcy, whose performance was demanded by the official receiver dues caused by unjust enrichment of the bankruptcy estate; dues generated from the bankrupt's acts carried out with permission of the court supervisor or by the supervisor's acts in the course of the arrangement proceedings which were completed or discontinued within three months preceding the declaration of bankruptcy;

2a) dues of the State Treasury on account of tax liabilities and dues of the Social Insurance Board on account of social insurance contributions secured by mortgage pledge, entry in the register of ships or right of retention up to 50 per cent of the price obtained from the sale of an encumbered thing or execution of an encumbered transferable right;

2b) other dues secured by pledge, mortgage entry in the register of ships or right of retention, up to the amount obtained from the sale of an encumbered thing or execution of an encumbered transferable right; where the price obtained from the sale does not suffice` to satisfy all the secured dues, those shall be satisfied in the order of priority due to them:

3) taxes and other public tributes as well as social insurance premiums due for one year immediately preceding the declaration of bankruptcy including all the supplementary fees, any interest and costs of execution;

4) repealed

5) costs of last disease of the bankrupt who died within six months preceding the declaration of bankruptcy and his funeral according to the standard which corresponds to local customs;

6) other claims together with the interest for a year preceding the declaration of bankruptcy and with the contractual indemnity, the costs of proceedings and execution;

7) interest not satisfied under the above categories - to be paid out in the order in which the capital should be satisfied'

8) penalties and court administrative and fiscal fines, and stamp penalties and increased stamp fines;

9) dues on the score of donations and legacies.

§ 2. The dues specified under categories 1-6 are preferential debts.

§ 3. A claim acquired by transfer or indorsement after the declaration of bankruptcy shall be satisfied under the seventh category, unless it is payable under a subsequent category.

**Article 205.** The dues under the first or second categories shall be satisfied by the official receiver as the necessary amounts come into the bankruptcy estate; where they have not been satisfied in this manner they shall be satisfied by distribution.

**Article 206.** Where an amount allocated for distribution does not suffice to satisfy all the dues in their entirety the dues under a subsequent category shall be paid only after the due in the preceding category is fully satisfied and where the estate does not suffice to pay all the dues under the same category fully those dues shall be satisfied proportionally up to the amount of each one of them.

**Article 207.** § 1. The official receiver shall draw up and submit to the judge-commissioner a plan for the distribution, in which he shall:

- 1) fix the amount to be distributed;
- 2) state the claims and rights of persons taking part in the distribution;
- 3) fix the amount falling due to each of the participants in the distribution
- 4) indicate which amounts are to be paid and which ones and for what reason are to be retained on the deposit with the court.

§ 2. The judge-commissioner, where necessary, shall introduce alterations or amendments into the plan.

**Article 208.** Repealed.

**Article 209.** § 1. The judge-commissioner shall notify the official receiver the bankrupt and the creditors, and shall publish an announcement that they may inspect the plan of distribution in the court secretariat, and, within 14 days from the date of the announcement, make pleas against the plan.

§ 2. Where a plan for distribution of the estate of a State enterprise has been drawn, the founding organ of the enterprise shall be notified thereof.

**Article 210** Where pleas have not been made, the judge-commissioner shall approve the plan of distribution, and subsequently, the plan shall be executed

**Article 211.** § 1. Where pleas have been made, the judge-commissioner shall make an order, having summoned to the session the creditors who have made the pleas, the official receiver the bankrupt and those whose rights have been prejudiced as a result of the pleas.

§ 2. Upon the decision coming into force, and in case it has been challenged-upon the court's decision coming into force, the judge-commissioner shall rectify the plan adequately to those decisions, and subsequently, the plan shall be executed.

§ 3. Despite the pleas and complaints made the plan shall be executed in those of their parts whose execution cannot be affected by the changes demanded in the pleas and complaints.

**Article 212.** The execution of the plan of distribution may not be effected before the decision declaring bankruptcy comes into force.

**Article 213.** § 1. The sum allotted to satisfy the active debt whose payment depends on the resolutive condition shall be released to the creditor without security, unless the liability to secure rests with the creditor by virtue of the legal relationship existing between him and the bankrupt.

§ 2. The sum allotted to satisfy the claim whose payment depends on a suspensory condition, shall be released to the creditor when he proves that the condition has been fulfilled. Otherwise, the sum shall be placed on a deposit with the court.

§ 3. The sum allotted to satisfy the claim guaranteed by a third party shall be released to the creditor in the amount still due to him on the date when the plan for distribution was made and to the guarantor - in the amount he has paid by way of the guarantee.

§ 4. The sum allotted to satisfy the claim due from the bankrupt jointly and severally with a third party shall be released to the creditor in the amount still due to him on the day the plan was made, and to a co-debtor - in the amount in which he has paid out for the bankrupt.

**Article 214.** § 1. As to the sum allotted to satisfy the claim secured by mortgage or in the register, the bankruptcy estate shall succeed the rights of the creditor which fact shall be recorded by an entry in the land and mortgage register or the register.

§ 2. The entry shall be made by virtue of an extract, certified by the court secretary, of the validly approved plan.

**Article 215** Where the assets of the bankruptcy estate have been fully liquidated, the final distribution shall be made.

**Article 216:** Upon the discontinuance or completion of the bankruptcy proceedings, the amounts retained on the deposit, unless they fall due to the person named in the plan of distribution, shall be released to the bankrupt. on his application.

**Article 217.** On execution of the plan of final distribution the court shall make a decision declaring the bankruptcy proceedings completed. The decision shall be made known by announcement in Monitor S<sup>1</sup>dowy i Gospodarczy and in the local press and shall be served upon the bankrupt, the official receiver and members of the committee of creditors, and where it concerns bankruptcy of a State enterprise - also to the founding organ.

### **Chapter IX. Discontinuance, Completion and Quashing of the Bankruptcy Proceedings**

**Article 218.** § 1. The court shall discontinue the bankruptcy proceedings:

1) where it appears that the capital of the bankruptcy estate, remaining after the exclusion therefrom of the debtor's assets encumbered by mortgage, pledge, registered pledge or entry in the register of ships, is not sufficient even to satisfy the costs of proceedings.

2) where the creditor on whose petition the bankruptcy was announced has not made, within the prescribed time limit, an advance - required by the judge commissioner - on the costs of proceedings, and the liquid assets for those costs are lacking;

3) where all the creditors, who have submitted their claims, demand that the proceedings be discontinued.

§ 2. The provisions of paragraph 1 above shall not apply to State enterprises and companies with exclusive shareholdings of the State Treasury, if the Minister of the State Treasury provides funds which are lacking to satisfy the costs of proceedings.

**Article 219** The court's decision on discontinuance of the proceedings shall be made known by announcement in Monitor S<sup>1</sup>dowy i Gospodarczy and in the local press and shall be served on the bankrupt, the official receiver and members of the committee of creditors, and where it concerns bankruptcy of a State enterprise - also to the founding organ.

**Article 220** The valid decision on the discontinuance of proceedings shall constitute a title to cancel the records made in respect of the bankruptcy in land and mortgage registers and other books and registers.

**Article 221** § 1. As from the date of valid discontinuance of proceedings the bankrupt shall regain free disposition of his estate.

§ 2. The official receiver shall promptly release to the bankrupt his estate, books, correspondence and documents. Where necessary, the order by the judge-commissioner on the taking back of the disposition of the estate shall be enforced by the court executive officer.

**Article 222.** § 1. Upon the discontinuance of the proceedings, the unfinished proceedings instituted by the official receiver to declare as ineffective an act done by the bankrupt to the prejudice of creditors shall be discontinued. Mutual claims for a refund of the costs of proceedings shall extinguish.

§ 2. In other proceedings the bankrupt shall succeed the bankruptcy estate.

**Article 223.** The provisions of the three preceding Articles apply respectively in cases where the bankruptcy proceedings have been validly concluded or the decision of declaration of bankruptcy has been validly quashed.

**Article 224.** Where the completion of proceedings was carried out in virtue of the making and approving of the arrangement the bankrupt shall regain the ability to administer and dispose of the estate unless the arrangement provides otherwise.

**Article 225.** An alteration of the legal relationship which has occurred pursuant to the provisions of this Law shall be binding upon the bankrupt and the other party also after the discontinuance or completion of the proceedings.

**Article 226.** § 1. Where the decision declaring bankruptcy has been quashed or the bankruptcy proceedings have been discontinued the bankrupt must pay out the remuneration allowed to the official receiver and the administrator of a separate estate and to refund them and members of the committee of creditors the expenses borne by them.

§ 2 The bankrupt is not entitled to seek compensation from the creditor who has demanded the declaration of bankruptcy, save only for cases in which the creditor was acting in bad faith.

### **Chapter X. Separate Provisions Regarding Bankruptcy of Institutions Issuing Mortgage Bonds or Bonds**

**Article 227.** § 1. In cases where, pursuant to the provisions of banking law upon the declaration of bankruptcy of a bank issuing mortgage bonds or bonds, there is formed a separate estate which is intended mainly to satisfy the rights of holders of mortgage bonds or bonds the court shall appoint a trustee in bankruptcy to protect the rights of those holders. Prior to the appointment the court shall consult the Bank Supervision Commission as to the person to be appointed trustee in bankruptcy. If the Bank Supervision Commission does not, within the prescribed time limit, submit the opinion, the court shall proceed with the case.

§ 2. The trustee in bankruptcy shall submit to the bankruptcy estate:

1) the aggregate principal of mortgage bonds which have not been redeemed prior to the date of declaration of bankruptcy, and the aggregate amount of unpaid mortgage bond interest falling due prior to that date;

2) the aggregate principal of mortgage bonds or bonds not drawn by lot together with interest on them payable after the date of declaration of bankruptcy and premiums provided for under the plan. '

§ 3. In the statement submitted to the bankruptcy estate the trustee in bankruptcy shall specify certain assets on which the funds of the separate estate have been secured, and the persons who are the debtors of the estate

§ 4. The official receiver shall provide the trustee in bankruptcy with all the necessary information. The trustee in bankruptcy is entitled to inspect books and documents of the bankrupt bank so far as it is necessary for him to protect the rights of the holders of mortgage bonds or bonds.

§ 5. At the meeting of creditors the trustee in bankruptcy has the right to speak only in matters which may affect the rights of holders of mortgage bonds or bonds.

§ 6. The liquidation of a separate estate shall be done by the official receiver with the participation of the trustee in bankruptcy. Where a separate estate does not suffice fully to satisfy the holders of mortgage bonds or bonds, the amount lacking to satisfy them shall be taken into account in the distribution of the general funds of the bankrupt bank; with this sum the trustee in bankruptcy shall vote at the making of the arrangement and shall be entitled to one vote per each sum resultant from the division of the total of all other claims giving a right to vote by the number of creditors who represent those claims. The amount falling due out of the general estate for the satisfaction of the holders of mortgage bonds and bonds shall be conveyed to the separate estate.

§ 7. Satisfied out of the separate estate shall be the costs of liquidation of the estate, not excluding the remuneration of the trustee in bankruptcy, and subsequently - the dues for the holders of mortgage bonds and bonds, in the following order:

- 1) mortgage bonds or bonds at their nominal value;
- 2) interest (coupons);
- 3) premiums drawn by lot.

**Article 228.** The provisions of the preceding Article shall apply in cases of bankruptcy of other institutions issuing mortgage bonds or bonds for whose satisfaction the separate estate is required.

**Article 229.** The official receiver may not put into circulation the mortgage bonds and bonds which have been issued by a bankrupt institution issuing such mortgage bonds and bonds being the property of that institution. Those mortgage bonds and bonds shall be remitted.