

**ACT
of the Czech Republic
No. 328/1991 Sb.**

on bankruptcy and composition

as subsequently amended by Acts No. 122/1993 Sb., No. 42/1994 Sb., No. 74/1994 Sb., No. 117/1994 Sb., No. 156/1994 Sb., No. 224/1994 Sb., No. 84/1995 Sb., No. 94/1996 Sb., (full wording published in No. 238/1996 Sb.), No. 151/1997 Sb., No. 12/1998 Sb., No. 27/2000 Sb., No. 30/2000 Sb., No. 105/2000 Sb., No. 214/2000 Sb., No. 368/2000 Sb., No. 370/2000 Sb. and No. 120/2001 Sb.

The Federal Assembly of the Czech and Slovak Federal Republic has passed the Act as follows:

**PART ONE
INTRODUCTORY PROVISIONS**

§ 1

(1) The purpose of this Act is to regulate the solution of the property relations of the debtor who has gone bankrupt.

(2) The debtor has gone bankrupt if it has more creditors and has not been able to satisfy its mature obligations for a longer period of time. Should the debtor have ceased the payments, it is understood not to have been able to satisfy its mature obligations for a longer period of time.

(3) An individual entrepreneur or a legal entity has gone bankrupt also if it has become overindebted. The overindebtedness shall be understood the situation when this person has more creditors and its mature obligations exceed its property; the appraisal of the debtor's property shall include also expected proceeds from its continuing entrepreneurial activity if an income exceeding the costs gained in continuing the entrepreneurial activity can be reasonably expected.

§ 1a

This Act shall not apply to the regulation of the solution of the property relations of a self-governing unit or of another legal entity established by law if the state has taken over its debts or has guaranteed for them.

§ 2

(1) If the debtor has gone bankrupt, it is possible to commence bankruptcy proceedings (hereinafter the "bankruptcy") or composition proceedings (hereinafter the "composition") at the bankruptcy court (hereinafter the "court") upon satisfaction of the conditions stipulated by this Act.

(2) left out

(3) The goal of bankruptcy and composition is to achieve a proportional satisfaction of the creditors from the property belonging to the bankruptcy estate upon conditions stipulated by this Act.

§ 3

Obligation to file application for adjudication of bankruptcy

(1) A legal entity or an individual entrepreneur who has gone bankrupt shall file an application for adjudication of bankruptcy without undue delay. A legal entity in liquidation shall do so only if it has become overindebted.

(2) The obligation under paragraph 1 shall apply also to the statutory bodies of the legal entity, to the liquidator of the overindebted legal entity in liquidation, and to the legal representatives of the individual. Should these persons not fulfill this obligation, they are liable to the creditors for damages arisen to them therethrough unless they prove that the damages were caused neither by their intention nor by their negligence; if more persons are concerned, they are liable for the damages jointly and severally.

(3) The obligation under paragraphs 1 and 2 is understood not to be fulfilled if the proceedings on the application to adjudicate bankruptcy were stayed or if the application was rejected.

(4) Instead of the application for adjudication of bankruptcy, the persons mentioned in paragraphs 1 and 2 may file an application for composition; however, if the composition was not approved of or confirmed, they shall file the application for adjudication of bankruptcy within 15 days.

**PART TWO
BANKRUPTCY**

§ 4

Application for adjudication of bankruptcy

(1) The application for adjudication of bankruptcy may be filed by the debtor or by any of its creditors.

(2) If the application is filed by the creditor, the applicant shall prove its mature receivable against the debtor, and specify the circumstances proving that the debtor has gone bankrupt. The applicant shall attach to the application any deeds mentioned in the application.

(3) If the application is filed by the debtor, the applicant shall state the circumstances proving that it has gone bankrupt. The applicant shall attach to the application a list of its property and obligations and mention its debtors, creditors and their addresses. The debtor shall sign the submitted list of property and obligations and shall expressly state that the list is correct and complete.

(4) A further application for adjudication of bankruptcy filed against the same debtor before the court decides on the adjudication of bankruptcy shall be considered to be accession to the proceedings; the further applicant shall accept the situation of proceedings as of the moment of accession.

(5) The applicant may withdraw its application until the adjudication of bankruptcy. The court shall stay the proceedings upon consent of all other applicants who acceded to the proceedings.

(6) The court shall immediately inform the labour office in whose district the debtor's residence or registered office is located that the application to adjudicate bankruptcy has been filed.

§ 4a

(1) After the delivery of the debtor's application for adjudication of bankruptcy to the court or after the delivery of the application for adjudication of bankruptcy by the court to the debtor, the debtor

a) shall avoid any conduct supposed to reduce its property except for usual business activity;

b) shall, upon appeal of the court, draw up a list of its property and obligations and mention its debtors, creditors and their addresses and deliver it to the court within a period specified by the court; this period shall not be shorter than 15 days.

(2) The list of property and obligations under paragraph 1 letter b) shall be signed by the debtor and the debtor shall expressly state that the list is correct and complete.

(3) If the debtor is a legal entity, the obligation under paragraph 1 letter b) shall apply in particular to its statutory body or persons who are members thereof, to the liquidator of a legal entity in liquidation or to the enforced administrator under special provisions; these persons can not get rid of this obligation by stepping back from their position or resigning during the last two months before the application for adjudication of bankruptcy was filed or after this application was filed.

(4) If the court rejects the application for adjudication of bankruptcy because the bankruptcy was not properly proved, the applicant shall be liable to the debtor for damages arisen to the debtor due to restriction of the disposal of its property. The applicant shall get rid of this obligation if it proves that the damages were caused neither by its intention nor by its negligence.

§ 4b

If enforcement of a decision by selling an enterprise or an execution according to a special legal regulation^{1e)} were finally and conclusively stayed because the price of things, rights and other property values belonging to the enterprise did not exceed the sum of due obligations belonging to the enterprise,^{1b)} the administrator of the enterprise shall file the application for adjudication of bankruptcy upon the debtor's property without undue delay unless the debtor has also another enterprise.

^{1b)} § 338n para. 6 and § 338w para. 3 of the Act No. 99/1963 Sb. as amended by Act No. 30/2000 Sb.

^{1e)} § 71 ff. of the Act No. 120/2001 Sb., on judicial executors and executorial activity (Execution Code) and on amendment to several acts.

§ 5

Deposit for costs of bankruptcy

(1) The applicant shall pay (even repeatedly) a deposit for the costs of bankruptcy of up to 50 000 Czech crowns; it shall do so upon appeal of the court within the specified period and in the specified sum. Should the receivable of the applicant follow from wage claims, the applicant shall be exempted from this obligation except for employees mentioned in § 67b. Should more applicants take part in the proceedings, they shall pay the deposit jointly and severally.

(2) Unless the deposit for the costs of bankruptcy is paid within the specified period, the court may stay the proceedings before adjudication of bankruptcy; the applicant shall be instructed about this consequence.

Period of protection

§ 5a

(1) The debtor may apply for approving of a period of protection within 15 days from the delivery of the application for adjudication of bankruptcy by the court if this application was filed by a creditor or by someone else than by the debtor itself.

(2) Apart from usual requisites of a motion, the application shall also include data concerning the debtor that are registered with the Commercial Registry, a list of the debtor's real property including pledges and sub-pledges appertaining thereto, a list of creditors including data about their claims, a list of the debtor's property and obligations not older than three months with maturity terms and certain proposal of solution of the debtor's legal relations and about measures concerning its entrepreneurial activities during the period of protection; entrepreneurs shall also submit their last financial statement.

§ 5b

(1) The period of protection may be approved of if

- a) the application is, upon compliance with the court's procedure under § 43 the Code of Civil Procedure, filed timely, by an entitled person and includes the prescribed requisites;
- b) the application does not concern a legal entity in liquidation;
- c) the application concerns an entrepreneur employing at least 50 persons in employment relationship; and
- d) the matter is not a repeated application for approval of the period of protection in the same proceedings.

(2) The court shall approve of the period of protection if the conditions under paragraph 1 are satisfied and if the data in the application are proved so sufficiently that they ground possibility of a satisfying solution of the debtor's property relations during the period of protection; otherwise, the application for the approval of the period of protection shall be rejected. No appeal is admissible against the court's decision on the period of protection.

(3) The decree on approval of the period of protection shall be delivered to the debtor and the creditors mentioned in the application. It shall also be delivered to the court that maintains the Commercial Registry with that the debtor is registered and to the cadastral offices that register the debtor's real property; should the debtor be a state enterprise or another state organisation or an organisation founded or ruled by a municipality, the court shall deliver the decree on approval of the period of protection also to the founders or establishers of the debtor under particular provisions. Apart from it, the court shall publish the decree on the official board of the court on the same day when it was issued and shall publish it in the Commercial Bulletin.

(4) The creditors mentioned in the application for the period of protection and further creditors who acceded to the proceedings in the course of the period of protection shall have the position of bankruptcy creditors (§ 7); if it comes to adjudication of bankruptcy, the decree thereon shall be delivered to them.

(5) Together with approving of the period of protection, the court shall convoke a meeting of creditors (§ 10) and, as the case may be, appoints a curator of the creditors (§ 11a). The meeting of the creditors shall elect the creditors' committee. Defects of delivery to any of the creditors during the convocation of the meeting shall not impede the validity of the election if the decree

on convocation of the creditors has been published on the official board of the court and in the Commercial Bulletin.

§ 5c

The period of protection shall last three months and shall commence to run from the day when the decree on its approval was published on the official board of the court. Upon the debtor's request filed in the course of the period of protection, the court may prolong it by up to three months upon approval of the creditors' committee.

§ 5d

In the course of the period of protection,

- a) the court shall restrict itself in the proceedings only to procedural measures necessary with regard to the course of the period of protection;
- b) the creditors shall not enforce satisfaction of their claims against the debtor through enforcement of a decision except for claims arising from employment relationship, taxes, fees, customs duties and insurance charges for social and health insurance; pending proceedings shall be interrupted;
- c) upon request of the creditors' committee or of curator, the court may decide that the debtor shall not do certain legal acts or may do them only upon a previous consent of the creditors' committee or of the creditors' curator; legal acts done at variance with this decision of the court shall be ineffective vis-à-vis the creditors;
- d) debtor's legal acts curtailing interests of the creditors to satisfy their claims shall be ineffective vis-à-vis the creditors;
- e) the debtor shall steadily strive to overcome the bankruptcy and inform the creditors' committee or curator of taken measures and eventually ask for their assistance.

§ 5e

(1) The period of protection shall end upon elapse of the time period, upon a stay of bankruptcy proceedings, upon adjudication of bankruptcy or upon approval of composition.

(2) Upon conclusion of the period of protection, its effects under § 5d shall expire; however, if the period of protection ends upon elapse of the time period, the effects under § 5d letter b) to d) shall remain unaffected until the adjudication of bankruptcy unless the court decides on their earlier expiration.

§ 5f left out

§ 6 **Bankruptcy estate**

(1) Property that is subject to bankruptcy shall establish the bankruptcy estate (hereinafter the "estate").

(2) The bankruptcy affects any property belonging to the debtor at the moment of adjudication

of bankruptcy and property acquired by the debtor during the bankruptcy; also wage or other similar income shall be considered this property. The estate shall not encompass property that can not be affected by enforcement of a decision; property used to entrepreneurial activities shall not be excluded from the estate.

(3) Upon conditions stipulated by this Act, the estate shall encompass also the property of other persons, in particular of those who acquired it upon debtor's ineffective legal acts.

§ 7

Participants of bankruptcy

The creditors who assert their claims (hereinafter the "creditors") and the debtor shall be the participants of bankruptcy.

§ 8

Trustee

(1) The trustee of the estate (hereinafter the "trustee") shall always be chosen from a list of trustees maintained by the court competent to the proceedings. The list of trustees may include only a flawless person fully capable to legal acts, having appropriate professional skills and agreeing to the registration, or a general commercial partnership that shall execute the activity of trustee through its associates with regard to whom it proves to comply with conditions of registration with the list. The general commercial partnership appointed as the trustee shall inform the court without undue delay about which of its associates will execute the position of trustee on behalf of it. Only a person impartial in the case may be appointed as trustee by the court. A person registered with the list may refuse its appointment as trustee only for important reasons. The court may exceptionally appoint as the trustee also a person not registered with the list if it complies with the conditions for registration with the list and agrees to the appointment.

(2) In the course of execution of its position, the trustee shall proceed with a professional care and shall be liable for damages arisen from a violation of the obligations imposed upon him by the court or stipulated by law. If a general commercial partnership has been appointed as trustee, its associates shall be liable for damages caused in connection with execution of the position of trustee jointly and severally. The trustee shall conclude an agreement on insurance of its liability for damages that could arise in connection with execution of the position of trustee.

(3) The trustee shall be entitled to a remuneration and coverage of cash expenses. The trustee's claims shall be satisfied from the estate, and, if thus not fully satisfied, from the deposit for costs of bankruptcy paid by the applicant. Agreements concluded with the participants of proceedings on other remuneration or coverage shall be null and void. Accounting of remuneration and coverage of expenses shall be made by the trustee in the final report, and, if no such report is made, upon cancellation of bankruptcy; before this moment, the court may approve of advance payments. According to circumstances of the case, the court may adequately increase or reduce the remuneration calculated according to a particular regulation. Upon consent of the court and based on a decision of the creditors' committee, the creditors may (even repeatedly) provide the trustee with an advance payment to cover his expenses; in granting the advance payment, the creditors may specify the purpose for that the advance payment is supposed to be spent and the terms of accounting. Activities that the trustee is obliged to do may be entrusted by the trustee to third persons on credit of the estate only upon consent of the creditors' committee.

(4) Should the trustee not fulfill his obligations properly, the court may impose on him a disciplinary fine of up to 100 000 Czech crowns.

(5) The creditors may adopt a proposal that the court deprive the trustee of his position and appoint a new one. The court may reject such proposal only if it has essential doubts regarding the change in the person of trustee.

(6) For important reasons, the court may deprive the trustee of his position upon request of any of the participants or of the trustee or even without any request. Should the court deprive the trustee of his position, it shall appoint a new one. The deprivation of the position of trustee shall not result in extinction of the trustee's liability under paragraph 2 arisen in the course of execution of the position. The trustee who has been deprived of his position shall properly inform the new trustee and provide him with all documents.

(7) The provisions on delivery and publication of the decree on adjudication of bankruptcy (§ 13 para. 4 and 5) shall apply analogously to delivery and publication of the decree on appointment of a new trustee.

(8) Even after the end of execution of his position, the trustee shall keep silence on facts identified by special provisions to be secret that he had learnt in the course of execution of his position; he may be deprived of this silence by the person in whose interest he has to keep it or by the court.

§ 9

(1) If the extent of administration requires so, the court may appoint a particular trustee to assist the trustee in a certain branch of administration. The particular trustee shall have rights, obligations and liability of the trustee to the extent of his competence.

(2) If necessary, the court may appoint a representative of the trustee to represent him if the trustee can not transiently execute his position for important reasons.

(3) The provisions on trustee shall also apply to appointment, remuneration and deprivation of the position of the particular trustees and of the trustee's administrator.

Preliminary trustee

§ 9a

(1) If circumstances of the case testify that the debtor has gone bankrupt and if it is necessary for discovery and securing of its property, the court may appoint a preliminary trustee after the commencement of bankruptcy proceedings. The application for appointment of the preliminary trustee may be filed by the labour office in whose district the debtor has its residence or registered office.

(2) The decree on appointment of the preliminary trustee shall be delivered and published in the same way as the adjudication of bankruptcy (§ 13 paragraph 4 and 5). The preliminary trustee shall be served the decree personally; the decree shall be enforceable upon its delivery to the preliminary trustee.

§ 9b

(1) The preliminary trustee shall fulfill obligations imposed upon him by the court or stipulated by law. The obligation of the preliminary trustee shall consist particularly in discovering and assuring of the debtor's property and to review the debtor's accounting. The preliminary trustee shall be entitled to ask the relevant tax authority for realisation of a tax control over the debtor.

(2) Should the court find out that the reasons that led to the appointment of preliminary trustee expired, it shall deprive the preliminary trustee of his position even without any proposal; otherwise, the preliminary trustee executes his position until the commencement of the effects of bankruptcy or until issuance of a decision on rejection of the application to adjudicate bankruptcy or of the decision on stay of proceedings. At the same time, the court shall decide on coverage of cash expenses and on remuneration of the preliminary trustee that shall be paid from the deposit for costs of bankruptcy; the unpaid excess of the deposit shall be surrendered to the applicants in the ratio in that they paid it. Should the court adjudicate bankruptcy, the applicants who have paid the deposit for costs of bankruptcy shall be entitled to refundation of the part of the deposit paid to the preliminary trustee from the debtor's property; these claims shall be considered to be claims against the estate under § 31 para. 2.

(3) The provisions of § 8 para. 8, § 9d, 9e, 9f, § 17 para. 1 and § 18 para. 1 shall apply also to the preliminary trustee; other provisions regarding the trustee shall apply to the preliminary trustee adequately unless this Act stipulates otherwise.

§ 9c

The debtor may dispose of the property only upon consent of the preliminary trustee; otherwise, its legal act shall be ineffective.

Cooperation granted to trustee

§ 9d

(1) Authorities of public administration, in particular financial offices, cadastral offices, authorities maintaining registry of cars and other authorities of public administration as well as notaries, the Securities Centre, banks, operators of telecommunication services, post offices and other persons coping with transport of consignments, insurance companies, press editors and transporters shall provide the trustee upon his written request with cooperation in the following manner.

(2) The cooperation under paragraph 1 consists in that the authorities and persons mentioned therein provide the trustee with data concerning the debtor's (bankrupt's) property and several other data necessary for the execution of administration to the same extent to that they could grant them directly to the debtor (bankrupt). The obligation of these authorities and persons to provide the trustee with cooperation according to other provisions of this Act or of special legal regulations¹⁾ shall remain unaffected.

(3) The cooperation under paragraph 1 consists also in that the authorities and persons mentioned therein that hold documents and other things that may serve to discovery of the debtor's (bankrupt's) property shall surrender or lend them to the trustee without undue delay.

(4) Under the preceding provisions, in particular

- a) the banks shall inform the trustee of numbers of the debtor's (bankrupt's) accounts and inform him about the state of these accounts and their changes; they shall inform also the trustee of the debtor's (bankrupt's) custodies and saving books;
- b) the post office and other persons who cope with delivery of consignments shall inform the trustee of debtor's (bankrupt's) delivery places, of the extent and nature of delivered consignments and of the sum of financial means that the debtor (bankrupt) receives therethrough;
- c) the operators of telecommunication services shall inform the trustee of the debtor's (bankrupt's) telephone, telegraph, fax and other electronic stations and addresses not mentioned in available records;
- d) the insurance companies shall inform the trustee of the debtor's (bankrupt's) insurance agreements and insurance payments;
- e) the press editors shall inform the trustee of advertisements concerning the debtor's (bankrupt's) property;
- f) the transporters shall inform the trustee of the debtor's (bankrupt's) transported cargo and its recipient.

(5) Upon request of the authorities and persons from whom the trustee requires cooperation, the trustee shall prove his appointment as trustee.

¹⁾ For example § 38 para. 6 of the Act No. 21/1992 on banks, as subsequently amended.

§ 9e

Third persons shall provide the trustee with cooperation under § 9d without undue delay; should they not satisfy this obligation, they are liable to the creditors for damages caused to them thereby.

§ 9f

The trustee proves his authorisation to ask third persons for the necessary cooperation under § 9d by submitting the decision of the court by which he was appointed to the position of trustee.

Meeting of creditors and creditors' committee

§ 10

(1) The court shall convoke a meeting of creditors if it is necessary for ascertaining of their opinions necessary for further conduct of bankruptcy; upon request of the trustee or the creditors' committee, the court shall always convoke the meeting of creditors. The meeting of creditors shall be announced in a suitable way together with announcement of the day and agenda of the meeting.

(2) The validity of a resolution and of election of the creditors' committee require a simple majority of votes of the creditors present at the meeting personally or properly represented calculated according to the sum of their claims.

(3) Only the creditors whose claim has been ascertained shall be entitled to vote. The court shall decide whether the voting right shall also apply to the creditors whose claim has not yet been ascertained, is doubtful or conditioned.

§ 11

(1) If the number of bankruptcy creditors exceeds 50, they shall establish a creditors' committee. If the number of creditors is lower, the creditors may appoint a representative instead of electing a creditors' committee; the provisions regarding entitlements and obligations of the creditors' committee shall apply for this representative analogously.

(2) The creditors' committee shall have at least three and no more than nine members; the number of members shall be decided upon by the meeting of bankruptcy creditors. Each member of the creditors' committee shall have his substitute.

(3) Only bankruptcy creditors except for the persons mentioned in § 67b may become members of the creditors' committee; if the member or the substitute is a legal entity, it shall inform the court about who will act on behalf of it in the creditors' committee.

(4) The members of the creditors' committee and their substitutes shall be elected by the meeting of creditors and confirmed by the court. For important reasons, the court may recall the creditors' committee or any of its members upon request of any of the bankruptcy creditors or of the trustee or even without request. If the court has recalled the creditors' committee or any of its members or if a member is not able to execute its position or resigns or is not able to take part in the meeting of the creditors' committee, the substitute shall pass to his position; the court may also order an additional election or may appoint a new creditors' committee or a new member thereof.

(5) The creditors' committee shall elect its chairman and vice-chairman, control the trustee's activities, continuously approves of the sum and correctness of the trustee's cash expenses and of the expenses connected with maintenance and administration of the estate and fulfill tasks stipulated by this Act or imposed by the court. It shall be entitled to file with the court applications concerning the conduct of proceedings.

(6) The creditors' committee shall convene upon its own initiative or upon convocation by the court or trustee. It decides by a majority of its members; its absent members shall be represented by substitutes.

(7) The creditors' committee shall protect the common interest of the creditors; the members and substitutes of the creditors' committee shall proceed with professional care when executing their positions and are liable for damages arisen from the violation of the obligations imposed upon them by the court or stipulated by law.

(8) The members and substitutes of the creditors' committee shall be entitled to a coverage of necessary expenses connected with the execution of their position and to an adequate remuneration determined by the court; these claims shall be understood the claims against the estate under § 31 para. 2.

§ 11a

Until establishment of the creditors' committee or until appointment of a representative of creditors, the competence of the creditors' committee shall be executed by the meeting of creditors.

§ 12

Supervision of the court

(1) The court shall be entitled to ask the trustee for a report or explanation, inspect his accounts and realise necessary inquiries. It may impose upon the trustee an obligation to ask the creditors' committee for its opinion concerning certain issues or it may instruct him itself.

(2) In realising its supervisory activity, the court decides on matters concerning conduct of the bankruptcy and takes measures necessary for assurance of its purpose.

(3) left out

§ 12a

Adjudication of bankruptcy

(1) Should the application filed the debtor or persons who are obliged to file the application for adjudication of bankruptcy on behalf of it (§ 3) testify that the debtor has gone bankrupt (§ 1), the court shall adjudicate bankruptcy within 10 working days from the day of delivery of a complete application for adjudication of bankruptcy; no appeal is admissible against the decree on adjudication of bankruptcy.

(2) Should the application filed by a creditor testify that the debtor has gone bankrupt (§ 1) and if all other conditions stipulated by law (§ 1a, § 12a para. 3 and § 67c para. 1) are complied with, the court shall adjudicate bankruptcy without undue delay; only the debtor may appeal against the decree on adjudication of bankruptcy unless the debtor acceded himself to the proceedings (§ 4 para. 4),.

(3) Bankruptcy is inadmissible to adjudicate

a) over the property of a political party or a political movement during the period from the promulgation of all-state elections to the Assembly of Deputies, Senate, boards of representatives of cities and municipalities or boards of representatives of higher territorial self-governing units until the tenth day from the last day of these elections;

b) in the course of enforced administration under special provisions unless adjudication of bankruptcy has been applied for by the enforced administrator himself;

c) in the course of the period of protection unless it has been found out that the debtor mentioned false or incomplete data in the application for its approval.

(4) Should it be obvious that the debtor's property does not suffice to cover the costs of bankruptcy, the court shall reject the application for adjudication of bankruptcy due to lack of assets; in doing so, the court shall be entitled to create its own opinion regarding solvability of the debtor's property or enforceability of its claims. At the same time, the court shall file an application for deletion of the debtor from the commercial registry.

(5) Only the applicant and the applicants who acceded to the proceedings may appeal against the decree on rejection of the application for adjudication of bankruptcy. An appeal against the decree on rejection of the application for adjudication of bankruptcy due to lack of assets may be filed also by a creditor who proves to have a cash claim against the debtor.

§ 13

(1) The decree on adjudication of bankruptcy shall include a verdict on appointment of trustee; if the court has appointed a preliminary trustee in the proceedings, it shall appoint him as trustee.

(2) The decree on adjudication of bankruptcy shall include

- a) name and residence (commercial name or name, registered office and identification number) of the bankrupt, and eventually other data necessary for identification of the bankrupt;
- b) name and residence (commercial name or name, registered office and identification number) of the trustee;
- c) appeal to creditors to file all their claims with the court within a period specified by the court; this period shall not be shorter than 30 days and longer than three months;
- d) appeal to persons who have obligations vis-à-vis the bankrupt to grant the performance not to the bankrupt, but to the trustee.

(3) The appeal under paragraph 2 letter c) shall include an appeal to the creditors to inform immediately about assuring rights they intend to assert over the bankrupt's things, rights and claims; in doing so, they shall specify the subject of the assuring right, kind of assuring right and reason of its rise and the assured claim.

(4) The decree on adjudication of bankruptcy shall be delivered to the participants of proceedings; it shall be further delivered to the trustee, to the persons mentioned in § 3 para. 2, to the bankrupt's known creditors as well as to relevant tax authorities and labour offices. The bankrupt shall be served the decree personally.

(5) The decree shall be published on the day of its issuance in full or suitably abridged wording on the official board of the court and of the district court in whose district the bankrupt's enterprise or its residence are located if located outside the district of the court. The extract from the decree shall be published by the court also in the manner stipulated by a special provision or in another suitable manner. If the debtor is registered with the commercial or other registry, the court shall announce the adjudication of bankruptcy also to the court that maintains the registry and that shall register this adjudication; the announcement of the court shall be considered to be an application for commencement of the proceedings regarding the change in registration. The court shall further announce the adjudication of bankruptcy to cadatral offices that maintains records of the debtor's real estate known to the court.

(6) The effects of adjudication of bankruptcy shall arise upon publication of the decree on the official board of the court that adjudicated the bankruptcy. At this moment, the debtor shall become a bankrupt.

(7) If the application for adjudication of bankruptcy has been rejected under § 12a para. 4, the court shall proceed analogously according to paragraphs 4 and 5.

§ 13a

(1) If the bankruptcy has been adjudicated over a legal entity in liquidation, the liquidation shall be interrupted in the course of bankruptcy. During this period, the liquidator shall execute his competence only to the extent that has not passed to the trustee; the competence of the liquidator shall encompass also cooperation with the trustee. , The liquidator shall be entitled to coverage of necessary costs and to an adequate remuneration for this activity; the sums shall be specified by the trustee with the consent of the court.

(2) The provision of paragraph 1 shall analogously apply to legal entities under enforced administration and to the position and activities of the enforced administrator. Should the enforced administration end upon adjudication of bankruptcy, the enforced administrator shall provide the trustee with cooperation until the first review hearing.

§ 13b

(1) If the bankruptcy was adjudicated after an enforcement of a decision by selling the bankrupt's enterprise was ordered or after a writ of execution to sell the bankrupt's enterprise was issued, the administrator of enterprise shall not execute his activity in the course of bankruptcy.

(2) The administrator of enterprise shall pass over all documents concerning the enterprise he disposes of and the results of his activity related to ascertainment of the price of enterprise to the trustee and, upon his request, provide him with necessary cooperation. For the granted cooperation, the administrator of enterprise shall be entitled to the coverage of necessary costs and to an adequate remuneration specified by the trustee with the consent of the court.

(3) The provision of paragraph 2 shall not apply if the administrator of enterprise was appointed as trustee of the bankruptcy estate of the same debtor.

§ 14

Effects of the adjudication of bankruptcy

(1) The adjudication of bankruptcy shall have the effects as follows:

- a) the entitlement to dispose of the property belonging to the estate shall pass to the trustee. The bankrupt's legal acts concerning this property shall be ineffective vis-à-vis the bankruptcy creditors. The person who concluded an agreement with the bankrupt may withdraw therefrom unless they knew of adjudication of bankruptcy at the moment of conclusion of the agreement;
- b) the bankrupt may reject the receipt of a donation or inheritance only upon a consent of the trustee;
- c) proceedings on claims that concern property belonging to the estate or that are supposed to be satisfied from this property whose participant the is bankrupt shall be interrupted except for criminal proceedings (in which, however, compensation of damages must not be decided upon), proceedings on maintenance of minor children and proceedings on enforcement of a decision; except for proceedings regarding the claims that must be filed in bankruptcy (§ 20), the proceedings may be continued upon application of the trustee or other participants of the proceedings and the trustee shall become participant of these proceedings instead of the bankrupt;
- d) proceedings on claims that regard property belonging to the estate or that are supposed to be satisfied from this property may be commenced only upon application of the trustee or against him; if the matter is claims that must be filed in bankruptcy (§ 20 para. 1), the proceedings, except for proceedings on enforcement of a decision, may be commenced only upon conditions stipulated in § 23 and 24;
- e) enforcement of a decision affecting the property belonging to the estate shall not be admissible to realise and no right to a separate satisfaction (§ 28) shall be possible to acquire regarding this property;
- f) it shall come to extinction of rights to a separate satisfaction (§ 28) regarding the property belonging to the estate and acquired by the creditors within the last two months before the application to adjudicate bankruptcy was filed or after it was filed; however, if things, rights or claims were also sold within this period, the acquired proceeds shall fall into the estate;
- g) immature claims of the bankrupt and his obligations that are supposed to be satisfied from the estate shall be considered mature in the bankruptcy proceedings;

- h) it shall come to extinction of the bankrupt's mandates, powers of attorney including procurations and so far not accepted offers to conclude an agreement if they concern the property belonging to the estate; however, powers of attorney granted by the creditor for the purpose of bankruptcy proceedings shall extinct on the day when the adjudication of bankruptcy becomes final and conclusive;
- i) compensation against property belonging to the estate shall not be admissible;
- j) it shall come to extinction of encumbrances over property belonging to the estate that arose upon strikingly disadvantageous conditions during the last two months before the application to adjudicate bankruptcy was filed or after it was filed;
- k) it shall come to extinction of the joint property of the bankrupt and his spouse; the part of this property used by the bankrupt for the purpose of running business shall always fall to the estate; if the rise of the joint property of the bankrupt and his spouse was reserved to the moment of extinction of the matrimony, adjudication of bankruptcy shall have the same effect as extinction of matrimony;
- l) the period stipulated for settlement of the extincted joint property of spouses stipulated by a special provision^{1c)} shall cease to run,
- m) effectivity of a merger agreement or a transfer of assets to the bankrupt's associate that did not become effective before adjudication of bankruptcy require an approval of the bankruptcy creditors.

(2) If an agreement on mutual performance had been satisfied neither by the bankrupt nor by the other participant of the agreement at the moment of adjudication of bankruptcy or if it had been satisfied only partially, each party shall be entitled to withdraw from this agreement; however, the lessor shall not be entitled to withdraw from the agreement on purchase of a leased thing concluded by the bankrupt as lessee unless the bankrupt properly satisfies its obligations from this agreement.

(3) The trustee shall be entitled to terminate a lease or sub-lease agreement or a commodatum agreement concluded by the bankrupt within the period stipulated by law or by the agreement even if the agreement has been concluded for a definite period of time; however, the termination period shall not be shorter than 3 months; the provision of § 711 of the Civil Code shall remain unaffected. The lease charge or other advance payment must be filed under § 20.

(4) Should the persons mentioned in § 9d proceed at variance with effects of adjudication of bankruptcy mentioned in paragraph 1 letter a) and e), they shall surrender the lost performance to the estate; this claim may be asserted by the trustee or any of the bankruptcy creditors.

^{1c)} § 150 para. 4 of the Act No. 40/1964 Sb., Civil Code, as subsequently amended.

§ 14a

(1) Upon adjudication of bankruptcy, the entitlement to execute rights and obligations belonging to the bankrupt under law or under other legal provisions and connected with disposal of the property belonging to the estate shall pass to the trustee. The trustee shall be particularly entitled and obliged to execute shareholder rights connected with shares belonging to the estate, to decide on commercial secret and other silence obligation, to execute employer's rights and obligations, to decide on commercial affairs of enterprise, to do all legal acts necessary for operation of the enterprise on behalf of the bankrupt including conclusion of agreements on credit for the purpose of financing export granted under a special law upon a previous consent of the creditors' committee, to assure accounting and fulfillment of obligations under tax

regulations. The obligations imposed upon the trustee by this law shall remain unaffected.

(2) The trustee shall submit a final report to the court within 18 months from adjudication of bankruptcy unless the court specifies another appropriate period in the decree on adjudication of bankruptcy. The period of 18 months and the period specified by the court may be prolonged by the court if it is justified by circumstances of the case.

§ 14b

Effectivity of an agreement on merger of the bankrupt or on transfer of the bankrupt's assets to an associate that were concluded after adjudication of bankruptcy require an approval of the bankruptcy creditors.

Ineffectivity and contestability of legal acts

§ 15

(1) If bankruptcy has been adjudicated, the debtor's legal acts done during the last six months before application for adjudication of bankruptcy was filed and the debtor's legal acts done after the application for adjudication of bankruptcy was filed shall be ineffectice vis-à-vis the bankruptcy creditors as far as the legal acts are concerned by that the debtor

- a) takes part in foundation of a legal entity or founds the legal entity by himself;
- b) acquires a property share in a business company or co-operative or in entrepreneurial activities of an other person;
- c) transfers things, rights and other property values from its property to other persons gratis or under strikingly disadvantageous conditions except for adequate donations to close persons at usual opportunities;
- d) assumes obligations inadequate to its property;
- e) refuses inheritance or donation without having any important reason therefore that does not consist in his property situation;
- f) concludes agreements on lease or commodatum of its property or establishes encumbrances to this property under strikingly disadvantageous conditions.

(2) The performance from ineffective legal acts or a compensation therefore shall be surrendered to the estate; the surrender may be asserted by the trustee or any of the creditors.

(3) Ineffectivity of legal acts under paragraph 1 shall apply also to heirs and legal successors of a legal entity.

§ 16

(1) The right to contest legal acts upon conditions stipulated in § 42a of the Civil Code may be asserted by the trustee or by any bankruptcy creditor.

(2) The right to contest legal acts may be asserted not only against the persons who have concluded the legal act with the bankrupt but also against their heirs; it may be asserted third persons only if they knew of circumstances grounding the contest against their legal antecedent.

(3) A mutual claim of the defendant against the bankrupt shall not be settled by the contestible legal act.

(4) By what the bankrupt's property was reduced through the contestible legal act shall be surrendered to the estate and, if impossible, it is necessary to grant a cash compensation.

Discovery of the estate

§ 17

(1) The bankrupt shall immediately complete and pass to the trustee a list of its property and obligations with data regarding its debtors, creditors and their addresses, to surrender its accounting and all necessary documents to the trustee and provide him with necessary explanations. The submitted list of property and obligations shall be signed by the bankrupt and the bankrupt shall expressly state that the list correct and complete.

(2) The list of property and obligations with all requisites, accounting and all necessary documents including necessary explanations shall be submitted to the trustee without undue delay, no later than within 30 days from adjudication of bankruptcy.

(3) If the debtor is a legal entity, the obligation under paragraphs 1 and 2 shall apply in particular to its statutory body and to the persons who are its members, or to the liquidator if the legal entity is in liquidation, or to the enforced administrator under special provisions; these persons shall not get rid of this obligation by stepping back from their position or resigning during the last two months before the application to adjudicate bankruptcy was filed or after this application was filed.

§ 17a

(1) Obligations concerning discovery of the estate shall be fulfilled within 30 days from adjudication of bankruptcy. Unless these obligations are fulfilled within this period, the court shall take appropriate measures for the purpose of fulfilling of these obligations; in particular, the court shall command by a decree delivered personally that the bankrupt satisfy these obligations within an additional period and shall instruct it about the consequences of their non-fulfillment or of stating of false or grossly distorted data in the list of bankrupt's property and obligations.^{1d)}

(2) The provision of paragraph 1 shall analogously apply to the persons mentioned in § 17 para. 3. Should more persons beside each other execute the competence of statutory body of the bankrupt who is a legal entity (§ 17 para. 3), the court shall command that any of them fulfill obligations concerning discovery of the estate. The obligation of the persons mentioned in § 17 para. 2 shall last even after these persons stepped back from their positions.

^{1d)} § 126 of the Act No. 140/1961 Sb., Criminal Act, as amended by the Act No. 253/1997 Sb.

§ 17b

(1) The bankrupt or the persons mentioned in § 17 para. 3 may also be summoned by the court to an examination if it is necessary for fulfillment of obligations concerning discovery of the estate. The writ of summons shall include the purpose of examination and instruction about the consequences of non-fulfillment of these obligations or mentioning of false or grossly distorted data in the completed list of bankrupt's property and obligations.

(2) The writ of summons shall be delivered to the summoned person personally; the writ of summons shall be delivered no later than ten days before the day of examination.

(3) If the person who was properly summoned to the court does not appear without a timely and reasonable apologise, it shall be brought up; the summoned person shall be instructed thereof.

§ 17c

(1) Before the commencement of examination, the court shall instruct the summoned person again about the consequences of non-fulfillment of the obligations concerning discovery of the estate.^{1d)}

(2) The court shall draw up minutes from the examination; the list of bankrupt's property and obligations submitted by the summoned person shall create a schedule of the minutes if the summoned person states that the list contains only correct and complete data or if it completes the list into the minutes. The trustee shall be informed about the examination of the summoned person.

^{1d)} § 126 of the Act No. 140/1961 Sb., Criminal Act, as amended by the Act No. 253/1997 Sb.

§ 18

(1) The schedule of the estate (hereinafter the "schedule") shall be drawn up by the trustee upon appeal of the court and upon usage of the list submitted by the bankrupt and upon cooperation of the creditors' committee.

(2) The schedule shall be a document that shall enable the trustee to dispose of the listed property. The schedule shall also include things, rights and other property values that do not belong to the bankrupt (§ 6 para. 3) but are, however, supposed to be sold; their registration with the schedule shall be notified by the trustee to their owners or to another person who disposes thereof and in case of a real estate also to the relevant cadastral office. Upon request of the person asserting its rights to the thing, right or other property value, the trustee shall draw up a confirmation about whether certain thing, right or other property value has or has not been included to the schedule of the estate.

(3) As soon as a thing, right or other property value was included to the schedule, it may be disposed of only by the trustee or by a person having the trustee's consent thereto.

(4) A person who holds any thing belonging to the estate shall inform the trustee about this fact as soon as it learns of the adjudication of bankruptcy and shall enable the trustee to inspect the thing, appraise it, include it to the schedule and sell; upon request of the trustee, it shall also surrender the thing to the trustee or it shall be liable for damages arisen therefrom.

(5) The schedule shall also include an appraisal made by the bankrupt or by the trustee; upon request of the creditors' committee, the appraisal shall be done by an expert. The appraisal shall be made according to special regulations.²⁾

(6) Should the schedule of the bankruptcy estate not be possible to draw up due to insufficient cooperation of the bankrupt (§ 17), the trustee shall be, upon consent of the court, entitled to realise an examination of the debtor's residence if it is also used for the purpose of entrepreneurial activities; the trustee shall be entitled to enter the bankrupt's residence for this purpose. The trustee shall call upon a non-participating person for assistance with this act. The trustee shall draw up minutes from the examination.

(7) The trustee shall take measures so that all things located in the bankrupt's residence or in any other place where the bankrupt has its things located are included to the schedule. The bankrupt shall enable the trustee to enter all places where it has its things located. The trustee shall call upon a suitable person, in particular a representative of the municipality if possible. The trustee shall draw up minutes from the examination.

(8) In case of danger that it comes to removal, damaging or destruction of the movable things

included to the schedule, the trustee shall arrange for their suitable assurance.

²⁾ Act No. 151/1997 Sb. on appraisal of property and on amendment of several acts (Act on Appraisal of Property).

§ 18a

(1) An enterprise³⁾ shall be included to the schedule as aggregate; however, it must be apparent what belongs to this aggregate as of the day of drawing up of the schedule.

(2) The operation of enterprise shall not end upon adjudication of bankruptcy. This operation shall be concluded only upon decision of the court after hearing the creditors' committee.

(3) During the period between adjudication of bankruptcy and issuance of the court's decision court on conclusion of operation of the enterprise, upon consent of the creditors' committee, the trustee may take measures necessary for assurance of a further operation of the enterprise^{3a)} and, upon consent of the creditors' committee, to conclude an agreement on credit for the purpose of financing export granted under a special law (§ 14a para. 1); provisions of special acts regulating the terms of operation of enterprise, eventually of execution of an employment or entrepreneurial activity shall remain unaffected hereby.

³⁾ § 5 of the Act No. 513/1991 Sb., Commercial Code

^{3a)} For example § 11 para. 1 of the Act No. 455/1991 Sb., on entrepreneurial activities upon a trades license (Trades License Act)

§ 19

(1) In case of doubts whether a thing, right or other property value belongs to the estate, they shall be included to the schedule with a remark concerning the claims asserted by third persons or with a remark on other reasons that cast doubt upon inclusion of the thing, right or other property value to the schedule.

(2) The court shall command that the person who asserts that the thing, right or other property value should not have been included to the schedule should file a lawsuit against the trustee within a period specified by the court. Should the lawsuit not be filed on time, the thing, right or other property value shall be understood to have been included to the schedule rightfully.

(3) Until the elapse of the period for filing the lawsuit and until the moment of a final and conclusive end of proceedings regarding the lawsuit, the trustee shall neither sell nor otherwise dispose of the concerned thing, right or other property value except for aversion of damages threatening to the property that is subject of the lawsuit.

§ 20

(1) The bankruptcy creditors shall file their claims with the court within the period specified by the court in the decree on adjudication of bankruptcy even if they are subject to judicial proceedings or of enforcement of a decision. At the same time, they shall specify whether they assert a separate satisfaction (§ 28) as well as other reasons for a prior rank in the distribution.

(2) Applications of claims shall be filed with the court in duplicate. The title and sum of each filed claim shall be specified in each application separately. Copies of documents from that the individual claims arise shall be attached to the application. If the matter is a claim determined in a foreign currency, it shall be necessary to convert it according to the course declared by the

Czech National Bank at the moment of adjudication of bankruptcy. If the matter is a claim of an indefinite amount or other non-monetary claim, its value shall be estimated and expressed in cash. If the matter is an enforceable claim, the enforceability shall be proved by a document with enforceability confirmation attached no later than during the review hearing or the claim shall be understood unenforceable.

(3) Should a filed claim not be possible to review due to its incompleteness or other defects, the court shall appeal the creditor to complete or correct the application within 15 days from the delivery of the appeal; the court shall, at the same time, instruct the creditor how to complete or correct the application. The filed claim shall not be taken into consideration in bankruptcy if the its application was not properly completed or corrected within the specified period as well as if the sum of the claim is not expressed; the creditor shall be instructed about this consequence.

(4) It shall be also admissible to file a claim linked to a condition. In this way, also a surety shall file its claim that may arise to him against the bankrupt if it pays the bankrupt's obligation to its creditor. Also the persons whose things, rights or claims assure the claims of separate creditors vis-à-vis the bankrupt (§ 27 para. 5) shall file their claims in this way.

(5) The court shall deliver a copy of the application including attachments to the trustee. The trustee shall draw up a list of applications without undue delay; the list shall include information about which claims have been recognised and which disclaimed by the trustee and reasons thereof. The claims not taken into consideration during the bankruptcy (§ 20 para. 3 and § 22 para. 2), the claims excluded from satisfaction (§ 33) and the claims mentioned in § 31 para. 2 and 3 shall not be included to the list. Separate creditors (§ 28) and individual classes of creditors (§ 32 para. 4) shall be mentioned in the list separately. With regard to each creditor, it shall be necessary to mention its name and residence (commercial name or name, registered office and identification number), eventually further data necessary for its identification, the title and sum of its claim. With regard to separate creditors, it is further necessary to identify the thing, right or claim that assures its claim.

(6) The trustee shall review the applications above all according to the bankrupt's business books and other documents and shall appeal to bankrupt to express its opinion on the elaborated list of applications. This list shall be submitted to the court.

(7) The participants shall be entitled to inspect the list of filed claims drawn up by the trustee and the documents concerning these claims in the trustee's office.

(8) Application of the claim shall have the same effect on the course of the limitation period and the period for extinction of rights as assertion of a right before court has.

Review hearing

§ 21

(1) The court shall order a review hearing for the purpose of revision of the filed claims; the trustee and the bankrupt shall be summoned thereto by a letter delivered personally with instruction of the necessity of their presence. The revision shall be realised according to the list drawn up by the trustee.

(2) The bankrupt as well as the bankruptcy creditors may disclaim existence, sum and rank of all filed claims.

(3) The result of the review hearing shall be recorded to the list of filed claims submitted by the trustee and the list thus amended shall create a schedule of the minutes from review hearing; the court shall surrender the creditors an extract upon their request.

§ 22

(1) If possible, the trustee shall also review applications delivered after elapse of the application period; otherwise, the court shall order a particular review hearing therefore. The creditors of the claims reviewed during the particular review hearing must not disclaim existence, sum or rank of claims reviewed during the previous review hearing. The provision of § 21 para. 3 shall apply analogously.

(2) Claims filed later than two months from the first review hearing shall not be taken into consideration during the bankruptcy. These claims shall not have the effects mentioned in § 20 para. 8; the trustee shall instruct the creditor who has filed the delayed application about this fact.

§ 23

(1) The claim shall be considered ascertained if it has been recognised by the trustee and unless it has been disclaimed by any of the bankruptcy creditors. The disclaimer of a claim by the bankrupt shall be mentioned in the list of filed claims; however, this disclaimer has no relevance as for ascertainment of the claim.

(2) Bankruptcy creditors of unenforceable claims that remained doubtful as for their existence, sum or rank may assert the determination of their right; the lawsuit must be filed against both the disclaiming creditors and the trustee with the court that has adjudicated bankruptcy; in the lawsuit, the creditors may appeal only to legal title mentioned in the application or asserted during the review hearing and the claim may be asserted only in the sum mentioned therein. The rank of the claim shall be always decided by the court.

(3) A person who disclaimed an enforceable claim shall assert its disclaimer with the court that has adjudicated the bankruptcy.

(4) For the purpose of assertion of a disclaimed unenforceable claim, the court shall determine a thirty-day period to the bankruptcy creditors whose unenforceable claim has been disclaimed; it shall instruct the creditor that if the period is missed, the disclaimed unenforceable claim shall no longer be taken into consideration during the bankruptcy.

(5) For the purpose of assertion of the disclaimer of an enforceable claim, the court shall determine a thirty-day period to the bankruptcy creditor who has disclaimed the enforceable claim; it shall instruct the creditor that if the period is missed, the disclaimed enforceable claim shall be considered ascertained.

§ 24

(1) The trustee shall be entitled to disclaim any unenforceable claim filed by a bankruptcy creditor, its sum or title. The trustee shall inform thereof the bankruptcy creditor whose claim is concerned, appeal it at the same time to assert its claim, its sum or title within 30 days at the court that has adjudicated bankruptcy and instruct it that otherwise the disclaimed unenforceable claim, its sum or title shall not be taken into consideration.

(2) Should the trustee disclaim an enforceable claim, it shall assert its disclaimer within 30 days from the review hearing at the court that has adjudicated bankruptcy, otherwise the disclaimed enforceable claim shall be considered ascertained.

(3) If a claim was disclaimed only by the trustee and if it was not disclaimed by any of the bankruptcy creditors, the trustee may subsequently acknowledge it in a written form vis-à-vis the

bankruptcy court even after conclusion of the review hearing. Upon the subsequent acknowledgement by the trustee, the claim shall be further considered ascertained; the court shall issue a decree thereon against that no appeal is possible; the decree shall be delivered to the trustee and to the bankruptcy creditors whose claim has been subsequently acknowledged by the trustee.

(4) If proceedings concerning the disclaimed claim were commenced before the adjudication of bankruptcy and these proceedings were interrupted [§ 14 para. 1 letter c)], the determination of the disclaimed claim shall be realised in the pending proceedings; no new proceedings concerning the disclaimed claim shall be commenced [§ 14 para. 1 letter d)]. The application for continuation of the interrupted proceedings shall be filed within the periods stipulated by law (§ 23 para. 4 and 5 and § 24 para. 1 and 2); the persons identified as participants of the proceedings (§ 23 para. 2 and 3 and § 24 para. 1 and 2) shall become the participants of the proceedings.

§ 25

(1) The decision of the court on existence, sum or rank of disclaimed claims shall be effective vis-à-vis all creditors.

(2) The costs of the dispute concerning the existence, sum or rank of disclaimed claims shall be considered costs of the estate if the trustee took part in such dispute. If the trustee did not take part in the dispute, disclaiming creditors shall be entitled to a compensation of the costs from the estate only if the realisation of the dispute has resulted in any benefit to the estate.

(3) The participant successful in the dispute concerning existence, sum or rank shall assert the result of the dispute at the trustee without undue delay. Upon submission of an enforceable decision, the trustee shall correct the amended list of applications (§ 21 para. 3) according to the result of the dispute.

§ 25a

(1) No participant shall be entitled against the trustee to compensation of costs of proceedings of the dispute concerning existence, sum or rank of disclaimed claims.

(2) The costs arisen to the trustee in the dispute concerning existence, sum or rank of the disclaimed claims shall be considered costs of the estate.

(3) The provisions of paragraphs 1 and 2 shall not apply if the matter is costs that arose due to the trustee's intention or negligence or by a chance that occurred to him.

(4) The compensation of costs of proceedings awarded to the trustee by the court's decision shall belong to the estate.

§ 25b

(1) A creditor who disclaimed a claim shall be entitled to compensation of its costs of proceedings from the estate if the dispute resulted in a benefit to the estate according to the court's decision. This rule shall not apply if the costs of proceedings were compensated to this creditor by the person upon whom the obligation to compensation was imposed in the proceedings concerning existence, sum and rank of the disclaimed claims.

(2) Should the creditor who has disclaimed a claim in the dispute concerning existence, sum or rank of the disclaimed claim be awarded a right to compensation of the costs of proceedings, this

right shall pass to the estate in the sum of the performance that he has been granted from the estate under paragraph 1.

Joint property of spouses

§ 26

(1) If the joint property of the bankrupt and its spouse extinguished upon adjudication of bankruptcy or if a previously extinguished joint property of the bankrupt and its spouse has not been settled until adjudication of bankruptcy or if the previously judicially or contractually restricted joint property of the bankrupt and its spouse has not been settled until adjudication of bankruptcy, the joint property of the bankrupt and its spouse shall be settled.

(2) If proceedings concerning settlement of the joint property of the bankrupt and its spouse are pending, the trustee shall become participant of these proceedings instead of the debtor after adjudication of bankruptcy.

(3) Agreements on restriction of the extent of the joint property of the bankrupt and its spouse, agreements on extension of the extent of the joint property of the bankrupt and its spouse if property so far belonging only to the bankrupt has become a part of the joint property upon these agreements, agreements on extension of the extent of the joint property of the bankrupt and its spouse if obligations so far belonging only to the bankrupt's spouse have become part of the joint property and agreements on settlement of the joint property shall be null and void if they were concluded during the last six months before the application for adjudication of bankruptcy was filed or after such application was filed.

§ 26a

(1) The entitlement to conclude an agreement on settlement of the joint property of the bankrupt and its spouse or to apply for the settlement at the court if the joint property of the bankrupt and its spouse has not been settled contractually shall pass from to bankrupt to the trustee on the day of adjudication of bankruptcy.

(2) Effectivity of the agreement on settlement of the joint property of the bankrupt and its spouse requires an approval of the court that executes supervision over the bankruptcy (§ 12). The agreement may be approved of only if the creditors' committee agrees to its conclusion.

(3) A claim that arose to the bankrupt's spouse from the settlement of the joint property shall not have to be filed in bankruptcy.

§ 26b

(1) A new joint property of the bankrupt and its spouse in the course of the effects of adjudication of bankruptcy (§ 14) shall not be admissible to arise; should the bankrupt enter a new matrimony in the course of the effects of bankruptcy, the rise of the joint property of spouses shall be postponed to the day of extinction of the effects of bankruptcy.

(2) Agreements on extension of the joint property that violate or circumvent paragraph 1 shall be null and void.

Sale
§ 27

(1) The estate may be sold in a public auction of things or other in cash appraisable property values, by way of a judicial enforcement of a decision or by selling them outside an auction. A public auction of things or other in cash appraisable property values including the enterprise shall be realised by the auctor upon request of the trustee. In doing so, it shall be necessary to proceed according a special law.^{4a)}

(2) A sale outside auction shall be done by the trustee upon approval of the court; when deciding thereon, the court shall take into consideration in particular the opinion of the creditors' committee, anticipated time of sale as well as expenses of further maintaining and administration of the estate. Should the court grant the approval, it may also determine terms of sale. Things may be sold outside an auction also for a lower than price than is the appraisal price. It shall be analogously possible to transfer the bankrupt's doubtful or uneasily enforceable claims. Consent of the court shall not be necessary to the sale of things immediately endangered by destruction or impairment. When realising the estate, the trustee shall proceed in such manner that possibility of preservation of entrepreneurial activities and of work opportunities is safe and that environment or other particularly important general (public) interests are protected as much as possible. The trustee shall not be bound by contractual pre-emption rights.

(3) Realisation of things through their sale according to provisions on enforcement of a decision shall be done by the court upon application of the trustee who has the position of entitled party in the course of enforcement.

(4) Pecuniary claims of the bankrupt against its debtors and persons who assure these claims shall be asserted by the trustee and enforced to the benefit of the estate; this rule shall analogously apply to in kind claims of the bankrupt that are appraisable in cash. The trustee shall not have this obligation if the costs of assertion and enforcement of these claims can not be covered from the estate and unless the bankruptcy creditors provide the trustee with an appropriate deposit for the compensation.

(5) The persons whose things, rights or claims assure the claims (§ 28) against the bankrupt shall be appealed to by the trustee to pay the assured claims within 30 days to the benefit of the estate or to lodge the price of the thing, right or claim assuring the claim within the same period. Should the aforementioned persons neither pay the assured claim nor lodge the price of the thing, right or claim, the trustee shall include the thing, right or claim to the schedule of the estate (§ 18). The things that assure claims of the separate creditors may be realised in a public auction. The provision of this paragraph shall not apply to sureties including bank guaranties and special cases of suretyship (avails, guaranties granted by the creditor to secure a customs duty obligation).

(6) Uncollectible claims and things, rights or other property values that were not possible to sell may be excluded from the estate upon approval of the court. The creditors' committee must agree to this step in advance.

^{4a)} Act No. 26/2000 Sb. on public auctions.

§ 27a

Upon approval of the court and after expression of the creditors' committee, the trustee may realise the things, rights and other property values that are used in the operation of enterprise on

the basis of one agreement; this agreement shall be otherwise governed by the relevant provisions of the Commercial Code;^{4b)} rights and obligations from employment relationships except for claims arisen until the effectivity of the agreement shall pass from the bankrupt to the buyer. The proceeds from this sale shall become a part of the total proceeds from realisation of the estate and shall not serve only for the purpose of satisfaction of obligations appertaining to the sold enterprise.

^{4b)} § 476 ff. of the Act No. 513/1991 Sb., Commercial Code.

§ 27b

(1) After the trustee learnt about conclusion of an agreement on merger of the bankrupt or on transfer of the bankrupt's assets to a bankrupt's associate, the trustee must not go on realising the estate; this rule shall not apply to sale of things immediately endangered by destruction or depreciation (§ 27 para. 2) or if the trustee prevents damages to the assets by realizing them (§ 19 para. 3).

(2) The trustee shall go on realizing if the bankruptcy creditors rejected to give their consent to the agreement.

§ 28

(1) The creditors of the claims assured by a lien, by a right of retention, by a restriction of transferability of a real estate, by a transfer of right under § 553 of the Civil Code or by a cession under § 554 of the Civil Code (hereinafter the "separate creditors") shall be entitled to demand that their claim be satisfied from the realisation of the thing, right or claim by that it has been assured.

(2) After subtraction of the expenses connected with maintenance, administration and sale of the realised thing, the proceeds from realisation (hereinafter the "proceeds") shall be surrendered to the separate creditors by the trustee upon a consent of the court. Unless the assured claim was fully satisfied, its unsatisfied part shall be considered a claim filed under § 20.

(3) The separate creditors shall be satisfied from the proceeds of the realisation according to the rank in which the title of their claim to separate compensation arose. The rank of a legal lien shall be determined according to the date of its registration with the real estate carastre; the rank of the judge's mortgage on a real estate shall be determined according to when the application for its establishment was delivered to the court.

(4) Separate creditors shall be satisfied to the extent of up to 70 % of the proceeds from the realisation coming to them. The unsatisfied part of the claim may be satisfied in the distribution in the rank to that the claim belongs according to its nature.

(5) Assuring rights mentioned on paragraph 1 shall extinct upon realisation of the thing, right or claim in bankruptcy even if the separate creditors have not filed their claims.

§ 29

(1) The trustee shall submit reports on realisation of the property from the estate to the court and to the creditors' committee. The final report with accounting of remuneration and expenses shall be submitted to the court by the trustee after the realisation of the estate. The remuneration and expenses shall be accounted also by particular trustee and by the trustee's representative as

well as by those who were deprived of the position of trustee by the court during the proceedings.

(2) The court shall review the final report on realisation of the property and on accounts of remuneration and expenses, shall remove any discovered mistakes therein or any obscurities thereof and shall inform the bankrupt and the bankruptcy creditors about the final report and accounts. In doing so, the court shall also remind the addresses that they can file objections to the final report within 15 days from the publication of the final report and accounts on the official board of the court.

(3) The court shall discuss the final report and accounts during a hearing to which it shall summon the trustee, the bankrupt and the creditors who have filed objections and the creditors' committee and shall decide thereon by a decree that shall be delivered to them and published on the official board of the court.

Distribution

§ 30

(1) After the decree on approval of the final report and of accounts of remuneration and expenses of the trustee becomes final and conclusive, the trustee shall submit to the court a proposal of distribution and the amended list of applications and shall specify how much should be paid for each claim. After reviewing the meritorial correctness of the proposal, the court shall issue a distribution schedule.

(2) The distribution schedule shall be delivered to the participants except for creditors whose claims have been fully satisfied and to the trustee and shall be published in full or abridged version on the official board of the court; the appeal against the distribution schedule may be filed within 30 days from the date of its publication on the official board of the court.

(3) Upon request of the creditors' committee, the trustee may propose that the court issue a partial distribution schedule even before approval of the final report if it is made possible by the state of estate realisation and if the distribution after the final report will obviously not be jeopardised. The final report and the final distribution shall include the extent to that claims of the creditors have been satisfied in the partial distribution.

§ 31

(1) Claims to exclusion of a thing from the estate (§ 19 para. 2), claims against the estate (§ 31 para. 2), claims to a separate satisfaction (§ 28) and work claims (§ 31 para. 3) may be satisfied at any time during the bankruptcy proceedings. Other claims may be satisfied only upon the final and conclusive distribution schedule.

(2) The following claims arisen after the adjudication of bankruptcy shall be considered claims against the estate:

- a) cash expenses and remuneration of the trustee;
- b) expenses connected with maintenance and administration of the estate;
- c) compensation of necessary costs and remuneration of the liquidator and of the responsible proxy for activities done after the adjudication of bankruptcy;
- d) taxes, fees, insurance charges for social security and contribution to the state employment policy as well as insurance charges for general health insurance;
- e) claims of creditors from agreements concluded by the trustee including agreements on credit

for the purpose of financing the export under special law after a previous consent of the creditors' committee, interest and contractual penalties from these agreements as well as from the agreements concerning operation of the enterprise from that the trustee has not withdrawn under § 14 para. 2;

f) claims to surrender the performance from agreements from that the party has withdrawn under § 14 para. 1 letter a);

g) claims to maintenance following from law.

(3) The following claims shall be considered work claims:

a) wage (salary) claims of bankrupt's employees and their remuneration for stand-by;

b) remunerations from agreements on work performed outside an employment relationship;

c) claims of bankrupt's employees to compensation of wage for leave, public holiday and due to impediments of work;

d) claims of bankrupt's employees arising from the transfer of the wage claims of the bankrupt's employees to the bankrupt on a contractual basis;

e) severance payments of bankrupt's employees granted upon termination of the employment relationship;

f) material security granted to bankrupt's employers under special provisions;

g) claims to compensation of wage upon a null and void termination of the employment relationship;

h) compensation of travel, move or other expenses that arose to bankrupt's employers when fulfilling their work obligations;

ch) compensations of bankrupt's employees for wear of their own tools, equipment and items necessary for the execution of work;

i) installments of compensations of the loss of earning after the end of work inability or upon recognition of a full or partial disability unless compensated otherwise and claims to compensation of the costs of maintenance of survivors if the matter is costs granted in connection with a work injury or professional sickness.

(4) The claims under paragraph 3 letter a) and b) shall be considered work claims if they arose during the last three years before the adjudication of bankruptcy and after the adjudication of bankruptcy; the claims under paragraph 3 letter c) to i) shall be considered work claims if they arose after the adjudication of bankruptcy or in the month when the bankruptcy was adjudicated.

(5) If the court has appointed as the trustee the same person who executed the position of administrator of enterprise in the proceedings of enforcement of a decision by selling the same bankrupt's enterprise or in the course of execution by selling the same bankrupt's enterprise^{1e)} and if its claim to remuneration and compensation of cash expenses for the execution of this position has not yet been satisfied, these claims shall be covered in bankruptcy proceedings together with the payments under paragraph 2 letter a).

^{1e)} § 71 ff. of the Act No. 120/2001 Sb., on judicial executors and executorial activity (Execution Code) and on amendment to several acts.

§ 32

(1) Claims against the estate (§ 31 para. 2) that have not yet been satisfied and work claims (§ 31 para. 3) shall be the first claims to be satisfied in the distribution. Unless the proceeds from the realisation of the estate are sufficient to cover all these claims, it is first necessary to satisfy cash expenses and remuneration of the trustee, then the costs connected with maintenance and

administration of the estate, then the judicial fee for bankruptcy, then the claims to maintenance following from law; other claims shall be satisfied proportionally.

(2) After a full satisfaction of the claims under paragraph 1, the claims shall be satisfied according to their division into classes. A 30 % part of the remaining proceeds from realisation of the estate shall come to the first class and a 70 % part to the second class. Unless the financial means coming to certain class are exhausted for satisfaction of the claims belonging to this class, the rest of these financial means shall be transferred into the immediately subsequent class.

(3) Unless all claims belonging to the same class can be fully satisfied, these claims shall be satisfied proportionally. Unsatisfied claims or their unsatisfied parts from the first class shall be satisfied in the second class.

(4) First class claims shall be defined as claims of the bankrupt's employees from employment relationships arisen during the last three years before adjudication of bankruptcy unless the matter is not the claims under § 31 para. 3, claims of participants of the supplementary retirement insurance with a state contribution^{4c)} and claims to maintenance following from law. Other claims shall be defined as second class claims.

(5) If the bankrupt is a bank, the claims of the owners of mortgage bonds shall be satisfied in the distribution before the claims mentioned in paragraph 2. Should it be impossible to satisfy all these claims fully, they shall be satisfied proportionally.

(6) Unless the costs connected with the maintenance and administration of the estate including the claims of the trustee to remuneration and compensation of cash expenses are satisfied in the distribution, these claims may be satisfied from the deposit for costs of bankruptcy in a proportion determined by the court; otherwise, this deposit shall be returned to the applicant.

(7) If the bankrupt is an issuer of subordinate bonds according to a special regulation,^{4d)} claims of owners of subordinate bonds following from these bonds shall be satisfied in the framework of distribution schedule after satisfaction of all other claims except for claims linked to the same or a similar condition of subordination. Claims from subordinate bonds and other claims linked to the same or a similar condition of subordination shall be satisfied according to their order.

^{4c)} Act No. 42/1994 Sb. on supplementary retirement insurance with a state contribution and on amendments of several acts connected with its introduction, as subsequently amended.

^{4d)} § 21a of the Act No. 530/1990 Sb. on bonds, as subsequently amended.

§ 33

(1) The following claims shall be excluded from satisfaction in bankruptcy proceedings:

- a) interest, default interest and default charge following from the creditors' claims arisen before the adjudication of bankruptcy if they accrued during the time after the adjudication of bankruptcy;
- b) costs arisen to the participants due to their participation in the bankruptcy proceedings;
- c) claims of the creditors from donation agreements;
- d) extracontractual sanctions affecting the bankrupt's property except for penalties due to fact that taxes, fees, customs duty, insurance charges for the social security, contribution to the state employment policy or insurance charges for public health insurance were not satisfied properly and on time if the obligation to pay this penalty arose before the adjudication of the bankruptcy;
- e) contractual penalties if the claim thereto arose after adjudication of bankruptcy.

(2) The sums coming to

- a) enforceable claims disclaimed by the trustee who asserted this disclaimer in time;

b) conditioned claims acknowledged by the trustee;
c) claims that were asserted by the creditors in time and disclaimed by the trustee, shall be lodged into the judicial custody and shall be distributed after the satisfaction of the conditions upon a new distribution schedule.

(3) Financial means that may be disposed of only in certain way stipulated by a special law shall not be used for the purpose of satisfaction of the claims of bankruptcy creditors. Upon approval of the court, the trustee shall dispose of these means in accordance with their purpose specification.

Enforced composition

§ 34

(1) If it has not yet come to the issuance of a distribution schedule, the bankrupt may propose that bankruptcy be finished by approving of an enforced composition; the proposal may be filed after the review hearing.

(2) The application shall specify the composition offered by the debtor. The debtor may offer a composition consisting in a new emission of shares or other securities issued by the bankrupt or even in an in kind composition, for example in surrendering a part of the debtor's property that is not immediately connected with the bankrupt's entrepreneurial activity. Should the applicant specify persons who are willing to guarantee for fulfillment of the enforced composition, these persons shall sign the application and their signature shall be notarially verified.

§ 35

The enforced composition shall be inadmissible if circumstances of the case throw doubt on the opinion that the applicant's intention is honest. Such circumstances shall be considered above all to be an insufficient cooperation of the bankrupt in discovery of its property, defects of business books, curtailing of creditors before the adjudication of bankruptcy, previous bankruptcies or compositions or an inadequately lower satisfaction of the claims of bankruptcy creditors according to the application for enforced composition in comparison to the satisfaction possibilities according to the provisions of bankruptcy.

§ 36

(1) The court shall reject the application for enforced composition

- a) if its confirmation results in violation of the rights to exclusion of a thing from the estate, rights to a separate satisfaction (§ 28) or claims to maintenance following from law;
- b) if the claims mentioned in § 31 para. 2 and 3 and first class claims are not satisfied or assured;
- c) if the joint property of spouses extincted upon adjudication of bankruptcy or before adjudication of bankruptcy has not been settled.

(2) Unless the court decides that the enforced composition is inadmissible, it shall order a hearing on the enforced composition and postpone realisation of the estate.

§ 37

(1) The bankrupt, the persons who have assumed the obligation to satisfy the enforced composition, the trustee and all so far not satisfied bankruptcy creditors as well as the creditors' committee if established shall be summoned to the hearing on enforced composition by the court. The court shall deliver the writ of summons personally and shall attach a proposal of the enforced composition. Announcement of the ordered hearing shall be published on the official board of the court.

(2) The bankrupt shall appear at the hearing. Unless the bankrupt appears without having properly apologised, it shall be considered to have abandoned the application for the enforced composition.

(3) During the hearing, the trustee shall submit necessary information about the state of the debtor's property, its economy, about the causes of bankruptcy and of the results that the bankruptcy creditors may expect if the court continues to conduct the bankruptcy proceedings. The court shall review the report and may ask for an expert's report thereto.

(4) During the hearing, the court shall find out which of the bankruptcy creditors are willing to agree to the application for the enforced composition.

§ 38

(1) The confirmation of the enforced composition shall be conditioned by a consent of the majority of the bankruptcy creditors attending in the hearing or properly represented who filed their claims in time and whose votes represent more than three quarters of all filed claims.

(2) The following creditors shall not be entitled to vote:

- a) the bankruptcy creditors whose rights will not be affected by the enforced composition (in particular separate creditors and the creditors of the estate);
- b) bankruptcy creditors who are close to the bankrupt⁴⁾ unless they acquired their claim from a person who is not close to the bankrupt earlier than six months before adjudication of bankruptcy; their votes shall, however, count if they vote against the application for the enforced composition;
- c) legal successors of the close persons⁴⁾ if they acquired their claim from the close persons during the last six months before adjudication of bankruptcy; their votes shall, however, count if they vote against the application for the enforced composition;
- d) bankruptcy creditors whose filed claim has not yet been ascertained or is doubtful or linked to a condition unless the court grants them voting rights after hearing other participants.

(3) Only the entitled bankruptcy creditors who are personally present at the hearing or properly represented shall be entitled to vote. Votes of bankruptcy creditors asserted otherwise shall not be acknowledged.

(4) Only claims that have not yet been fully satisfied may be taken into consideration during the vote; they shall be taken into consideration as for their unsatisfied extent.

⁴⁾ § 116 of the Civil Code No. 40/1964 Sb., as subsequently amended.

§ 39

(1) The confirmation of the enforced composition shall be decided upon by a decree including the wording of the enforced composition.

(2) The decree on confirmation of the enforced composition shall be publicly declared to the necessary extent; the decree shall further be published on the official board of the court and the day of publication shall be identified thereon. Furthermore, the decree shall be delivered personally to the bankrupt, to the trustee, to all bankruptcy creditors and to the persons who have assumed the obligation to fulfill the enforced composition as sureties or co-debtors; the delivery shall be made on the day of its publication on the official board of the court.

(3) An appeal against the decree on confirmation of enforced composition may be filed by the participants who did not expressly agree to the confirmation and by the bankrupt's co-debtors and sureties.

§ 40

(1) The court shall reject the application for confirmation of the enforced composition even if the bankruptcy creditors agreed thereto provided that it has become clear that

- a) there are reasons for inadmissibility of the application for enforced composition (§ 35);
- b) one of the bankruptcy creditors was granted particular advantages in comparison to other bankruptcy creditors of the same position;
- c) advantages granted to the bankrupt upon the enforced composition are not adequate to its economical situation;
- d) the enforced composition violates a common interest of bankruptcy creditors;
- e) bankruptcy creditors of the second class claims are supposed to receive less than 15 % of their claims within one year from filing of the application;
- f) the enforced composition follows up with bankrupt's unfair or reckless economy.

(2) The decree on rejection of the application under paragraph 1 shall be delivered to the bankrupt, trustee, all bankruptcy creditors and to the persons who have undertaken to fulfill the enforced composition as sureties or co-debtors. The bankrupt and the creditors who did not object to the approval of the enforced composition shall be served personally; only they may appeal against this decree.

§ 41

(1) After the decree on confirmation of the enforced composition has become final and conclusive, the court shall issue a decree by which it shall

- a) return the entitlement to dispose of the property belonging to the estate [§ 14 para. 1 letter a)] to the bankrupt;
- b) declares that the bankrupt enters the position of the trustee in all proceedings conducted by the trustee instead of the bankrupt [§ 14 para. 1 letter a)] and that the bankrupt becomes the participant of these proceedings instead of the trustee;
- c) return other rights restricted by the adjudication of bankruptcy to the bankrupt.

(2) The confirmation of the enforced composition shall not result in affection of the creditors' rights against co-debtors and against the co-debtor's sureties unless the creditors expressly agree to the restriction of these rights.

§ 42

(1) If the enforced composition confirmed by the court has been fulfilled properly and in time, the bankrupt shall be freed from the obligation to pay the bankruptcy creditors the detriment they have suffered due to the enforced composition; the bankrupt shall be also freed from its obligations against sureties or other persons who could have regress rights against him. Agreements violating this rule shall be null and void. Interest from bankruptcy claims accrued from the adjudication of bankruptcy and costs of participation in the bankruptcy arisen to individual creditors shall not be possible to award.

(2) Bankruptcy creditors whose claims were not taken into consideration may even after the cancellation of bankruptcy ask the debtor for a full satisfaction unless they knew or must have known of adjudication of bankruptcy.

(3) Should a new bankruptcy be adjudicated over the bankrupt's property before the bankrupt fully fulfilled the enforced composition, the bankruptcy creditors shall not be obliged to return what they received in good faith upon the enforced composition. In the framework of the new bankruptcy, their claims shall be considered satisfied only to the sum that was actually paid to them according to the enforced composition.

§ 43

(1) If the enforced composition confirmed by the court was not fulfilled even though the bankrupt was reminded by any bankruptcy creditor in a registered letter and was granted an additional, at least eight-day period, all moderations and other advantages granted upon the enforced composition shall become ineffective; however, the rights of the bankruptcy creditors against the bankrupt acquired through the composition remain unaffected.

(2) If the enforced composition was achieved through a fraudulent conduct or through a prohibited provision of special advantages to individual creditors, each of the bankruptcy creditors may within three years from confirmation of the enforced composition demand that its claims be fully satisfied or that other advantage be considered ineffective; this demand shall be heard by the court that adjudicated bankruptcy. However, this right shall not come to those bankruptcy creditors who took part in the fraudulent conducts or prohibited agreements or who could have asserted the inefficiency reasons during the proceedings on confirmation of the enforced composition.

(3) If the bankrupt was within three years from the confirmation of the enforced composition finally and conclusively sentenced for a crime through that it achieved the enforced composition or curtailed satisfaction of a bankruptcy creditor, the enforced composition shall become null and void and the creditors may demand a full satisfaction of their claims; however, enforceability of the decisions issued in the bankruptcy proceedings shall remain unaffected. Upon fulfillment of the condition that the bankrupt's property suffices at least to the coverage of the costs of bankruptcy proceedings, they may apply for a repeated adjudication of bankruptcy.

Cancellation of bankruptcy

§ 44

(1) The court shall cancel the bankruptcy by a decree if no enforced composition was confirmed

- a) if it finds out that the prerequisites of bankruptcy are not given;
- b) after satisfaction of the distribution schedule;

- c) upon request of the bankrupt if all bankruptcy creditors expressed their consent on a document with officially verified signatures and upon a consent of the trustee;
- d) if it finds out that the estate's property does not suffice to coverage of the costs of bankruptcy; things, rights, claims and other property values excluded from the estate (§ 27 para. 6) shall not be taken into consideration;
- f) if it came to a merger of the bankrupt or to transfer of the bankrupt's assets to its associate.

(2) If the bankrupt died during the bankruptcy, the trustee shall submit a report on the hitherto results of bankruptcy to the court; in drawing up such report, the trustee shall proceed adequately according § 29 para. 2 and 3; the bankrupt's heirs or the state in case of non-existence of any heir shall enter the proceedings instead of the bankrupt. After approving of the report, the court shall cancel the bankruptcy and pass the report to the court hearing the inheritance.

(3) If it came to confirmation of an enforced composition, the court shall cancel the bankruptcy if the bankrupt proves sufficiency of the assurances given by him for satisfaction of the claims to exclude a thing from the estate, of the claims to a separate satisfaction (§ 28) as well as of the claims under § 31 para. 3. If it has not come to the cancellation of bankruptcy under paragraph 1, the court shall cancel the bankruptcy after the satisfaction of the enforced composition.

(4) The trustee shall close the bankrupt's accounting to the moment of cancellation of bankruptcy and complete a financial statement except for the cases when it came to confirmation of a enforced composition. The court shall subsequently deprive the trustee of its position.

(5) The rules of delivery and publication of the decree on adjudication of bankruptcy shall apply to the delivery and publication of the decree on cancellation of bankruptcy. The effects of the adjudication of bankruptcy (§ 14) shall expire upon the finality and conclusivity of the decree on cancellation of bankruptcy unless the court decides otherwise.

§ 44a

(1) The decree by that the court of appeal changed or quashed the decree of the first instance court shall result in cancellation of bankruptcy; the rules of delivery and publication of the decree on adjudication of bankruptcy shall apply also to the delivery and publication of this decree.

(2) The delivery and publication of the decree on adjudication of bankruptcy shall be governed by the rules of the delivery and publication of the decree on adjudication of bankruptcy; the necessary steps shall be taken by the first instance court. The effects of adjudication of bankruptcy (§ 14) shall expire upon publication of the decree of the court of appeal on the official board of the first instance court unless the court decides otherwise.

(3) Deprivation of the trustee of its position, the costs of bankruptcy, eventually returning of the deposit for the costs of bankruptcy shall be decided upon by the first instance court.

§ 45

(1) Upon cancellation of the bankruptcy, the effects of adjudication of bankruptcy mentioned in § 14 para. 1 letter a) to e), g), i) and l) shall expire; the validity and effectivity of acts done during the bankruptcy shall remain unaffected.

(2) After the cancellation of bankruptcy, an ascertained claim not expressly disclaimed by the

bankrupt may be enforced through enforcement of a decision on the basis of the list of applications.

PART THREE COMPOSITION

Application for composition

§ 46

(1) A debtor who satisfies the conditions of adjudication of bankruptcy may file an application for composition with the court competent to adjudicate the bankruptcy (§ 3 para. 1). The court shall hear the application unless the bankruptcy has been adjudicated.

(2) The debtor shall specify the proposed composition in the application. The debtor may also offer a composition consisting in issuance of new shares or other securities issued by the debtor or even an in kind composition consisting in surrendering of a part of values not immediately connected with the debtor's entrepreneurial activity. Persons willing to undertake to fulfill the composition as co-debtors or sureties shall sign the application. Unless the joint property of spouses has been settled, the application shall be signed also by the debtor's spouse in order to prove that the spouse agrees to use all property of the unsettled joint property of spouses for the purposes of composition. All signatures shall be officially verified.

(3) Should the applicant is an entrepreneur, the application shall contain the number of employees and measures the debtor shall take for reorganisation and further financing of the enterprise.

§ 47

(1) The debtor shall attach to the application a complete list of its property with an overview of its economical state at the moment of filing of the application. It shall specify the individual items of movable and immovable property and where they are located; as for claims, it shall specify their sum, title and possibility of their satisfaction. Apart from property, it shall also specify the obligations with addresses of the creditors and with the identification which of them are close to the debtor.⁴⁾ Unless the joint property of the debtor and his spouse has been settled, the debtor shall specify which of the items in the list belong to its exclusive property and which of them belong to the join property of spouses. The final overview shall contain the height of overindebtedness.

(2) The list mentioned in paragraph 1 shall be signed by the debtor and submitted in so many counterparts that it can be delivered to all creditors and to the composition trustee [§ 50 para. 3 letter a)].

(3) Unless the debtor removes substantial defects of the applications within the period determined by the court, the court shall stay the proceedings.

§ 48

Participants of the composition

The participants of the composition are the debtor, its spouse, co-debtors and sureties of the debtor if they signed the application for commencement of composition and the creditors who have filed their claims in time [§ 50 para. 3 letter c)] and have not yet been fully satisfied.

§ 49

Effects of filing the application

(1) During the period from filing of the application to the decision on approval of the composition (§ 50 para. 3), the debtor must not alienate or encumber its real estate, establish rights to a separate satisfaction (§ 28) from its property, assume obligations as a surety or co-debtor, grant inadequate donations from its property and do any acts that can damage the creditors.

(2) Acts done at variance with paragraph 1 shall be ineffective vis-à-vis the creditors; any creditor may assert this ineffectivity at the court until the publication of the decree on cancellation or stay of composition on the official board of the court.

Decision on the approval

§ 50

(1) The court shall reject the application by a decree if it finds out that

- a) the debtor was sentenced for a crime of fraud or discrimination of a creditor during the last five years before the application was filed or if it follows from the circumstances that the application is not based on a honest intention;
- b) a bankruptcy upon the debtor's property was adjudicated or composition approved of during the last five years before the application was filed;
- c) the application is at variance with § 60 para. 1 letter b);
- d) the creditors of the claims that have no priority (§ 54) were not offered payment of at least 30 % of their claims within two years from submission of the application; or
- e) the application does not contain data specified in § 46 para. 3 if it shall contain them.

(2) The decision under paragraph 1 shall be delivered only to the applicant.

(3) The court shall confirm the composition by a decree by that it shall simultaneously

- a) appoint a composition trustee from the persons registered with a special part of the list (§ 8 para. 1); its rights, obligations and liability shall be adequately governed by the provisions on the trustee;
- b) order a composition hearing that shall take place no later than within six weeks from the publication of the decree on the official board of the court;
- c) appeals to the creditors to file their claims in written or orally into the court's minutes within four weeks from the publication of the decree on the official board of the court;
- d) decide on measures to be taken in order to assure the debtor's property.

(4) The provisions of § 8, § 9d to 9f shall apply adequately to the rights and obligations of the composition trustee.

§ 51

(1) The decree on approval of the composition shall be delivered to the debtor's known creditors and to the trustee, to the debtor and to the persons mentioned in § 46 para. 2 and to tax authorities. In case of a debtor having extremely large assets, the property list may be delivered also by announcing an information on the court's official board about where and under what conditions the list can be inspected. The decree shall be published in full or abridged version on the official board of the court on the day when it was issued; furthermore, the decree shall be published on the official board of the district court in whose district the debtor has its residence or registered office located outside the district of the court that approved of the composition. The extract from the decree shall be published analogously according to § 13 para. 5.

(2) The court shall announce the approval of composition to the authorities maintaining the commercial or other registry and the real estate registration. Should an enforcement of a decision be conducted against the debtor regarding the debtor's real estate, the court shall lodge a copy of the decree with the relevant files.

(3) The creditors and the debtor may apply for appointment of another trustee within 15 days from the delivery of the decree. Should the court consider this application reasonable, it shall deprive the trustee of its position and appoint another trustee. The same rule shall apply if the court has taken into consideration the rejection of the position by the trustee or if there are reasons for his recall.

(4) The decree on approval of composition may be appealed by the creditors whose claims have no priority rights. Only the debtor may appeal against the decree on rejection of the application for composition.

§ 52

Effects of the approval of composition

(1) Effects of the approval of composition shall arise on the day when the decree was published on the official board of the court.

(2) The approval of composition shall have the following effects:

- a) the debtor must not independently do any acts by that interests of the creditors could be curtailed; the composition trustee shall be entitled to determine the debtor's legal acts that shall require its consent and may reserve that it shall pay and receive payments or fulfill other debtor's obligations instead of the debtor;
- b) the court may command that the debtor not do certain legal acts or do them only upon a prior consent of the composition trustee; the court may decide also on other measures necessary for securing of the debtor's property;
- c) the debtor's legal acts that are at variance with the provisions of letters a) and b) shall be ineffective vis-à-vis the creditors;
- d) the debtor can not file an application for adjudication of bankruptcy during the composition;
- e) the creditors can neither apply for bankruptcy over the debtor's property nor conduct an enforcement of a decision for claims that have no priority (§ 54);
- f) the claims included to the composition shall be considered acknowledged by the debtor.

(3) left out

§ 53

Rights, receivables and claims of the creditors in composition

(1) Everyone who files its claim upon the appeal of the court [§ 50 para. 3 letter c)] shall be considered creditor in the composition. The manner, rank and extent of satisfaction of the claims shall be determined in the confirmed composition (§ 60) unless a satisfaction outside the composition is possible to achieve according to further provisions.

(2) Interest including default interest accrued from the day when the approval of composition became final and conclusive shall be excluded from the composition and the right to them shall become extinct when the decree on confirmation of the composition became final and conclusive.

(3) Obligations from the agreements mentioned in § 14 para. 2 or parts thereof shall not be included to the composition.

§ 54

Priority claims

(1) The right to a priority satisfaction in the composition shall be adequately governed by § 31 and 32.

(2) The bearers of the claims mentioned in paragraph 1 shall be considered priority creditors.

§ 55

Joint property of spouses

(1) Upon its signature of the application for composition, the debtor's spouse shall assume the obligation to tolerate the usage of all property belonging to the joint property of spouses for the purpose of composition; this obligation shall last even if the joint property of spouses expired or was cancelled after the application for composition was filed. This obligation shall become extinct upon the death of the signed spouse of debtor.

(2) Even the joint property of spouses settled by an agreement between both co-owners during the last 6 months before the application for composition was filed shall be considered unsettled in the composition.

(3) After the submission of the application for composition, judicial proceedings on settlement of the joint property of spouses that were not finished before the application for composition was filed may be finished only upon issuance of a judgment of the court. The period stipulated by a special law⁵⁾ shall not run from submission of the application for composition to the conclusion or stay of the proceedings.

⁵⁾ § 150 para. 4 of the Civil Code, as subsequently amended.

§ 56

Applications of claims

(1) The creditors shall file their claims within the period mentioned in § 50 para. 3 letter c).

(2) The application shall include the sum and title of the claim, eventually also identification

of the court hearing the claim that has already been asserted.

(3) Even the priority creditors must file their claim (§ 54 para. 2).

§ 57

List of applications

(1) The trustee shall include the applications into a list in the rank of their delivery to the court; priority claims shall be recorded separately from other claims. The filed claims shall be reviewed according to business books and other documents. The court shall ask the debtor for expression of whether it acknowledges individual claims. Should the debtor disclaim any claim, the debtor shall mention reasons therefore. If the debtor does not express its opinion within the period given by the trustee, the debtor shall be considered to have acknowledged the claim; the acknowledgment of the claim shall be effective even if bankruptcy is adjudicated upon the debtor's property within three years.

(2) The trustee shall call the creditors to inspect the list of applications and the debtor's statement within the period specified by the trustee. The trustee shall simultaneously instruct the creditors that they can express their opinion concerning the list and the debtor's statement and that their statements shall be attached to the list or that it shall be eventually mentioned that they did not express their opinion.

§ 58

Composition hearing

(1) The creditors who filed their claims in time shall be entitled even before the composition hearing to file proposals, express their opinions and vote about the composition. Delayed applications shall be taken into consideration in the composition hearing only if they may be reviewed without undue delay.

(2) During the composition hearing [§ 50 para. 3 letter b)], the court shall find out which of the creditors are willing to accept the composition proposal. The voting right shall be governed analogously by § 38 with the following divergences:

- a) the debtor shall take part in the composition hearing personally. After the commencement of the hearing, the application for composition can neither be withdrawn nor changed to the detriment of creditors. Unless the debtor appears at the hearing without a due apologise or unless the apologise is acknowledged due by the court, the court shall stay the proceedings;
- b) the debtor's creditors shall not have to appear personally. However, only the creditors present personally or properly represented shall be entitled to vote;
- c) the voting right shall belong only to those creditors who could suffer a property detriment due to the composition;
- d) separate creditors (§ 28) shall be entitled to vote only by the part of their claim that will not be satisfied from the right to the separate satisfaction (§ 28);
- e) priority creditors and the creditors whose voting right has been disclaimed by the trustee, by the debtor or by other creditor shall not be entitled to vote;
- f) the voting right shall not belong even to the creditors who acquired their claim by assignment from the debtor when it had already gone bankrupt.

§ 59
Disclaimer

A disclaimer of the existence or sum of a filed claim by the debtor, trustee or any of the creditors entitled to vote shall have the consequences as follows:

- a) should the claim be disclaimed by the debtor, the court shall, upon hearing the participants and upon the request of the creditor, command that the sum belonging to the disclaimed claim be secured by lodging it with the court's custody; the court shall simultaneously determine a period to the creditor of the disclaimed claim to assert the claim and shall instruct it that the secured sum shall be released to the benefit of the debtor if the period is missed. Furthermore, the disclaimer of the claim by the debtor shall have the consequence that the enforcement of a decision on the basis of the confirmed composition (§ 63 para. 4) shall not be possible to realise in order to enforce this claim; however, if the disclaimed claim has already been enforceable, the debtor shall assert its rights according to the general provisions of Civil Procedure Code;⁶⁾
- b) should the claim be disclaimed by the trustee, the claim shall not be admissible to enforce through the enforcement of a decision on the basis of the confirmed composition (§ 63 para. 4);
- c) disclaimer of a claim by other creditor shall have no effect on the composition.

⁶⁾ § 80 letter c) and § 268 of the Code of Civil Procedure

Confirmation of the composition
§ 60

(1) The court shall confirm the composition by a decree upon satisfaction of the following conditions:

- a) the claims of the persons entitled to require exclusion of a thing, the claims of separate creditors (§ 28) and the claims of maintenance following from law remain unaffected by the composition;
- b) priority claims have been paid or their payment has been assured;
- c) creditors of other claims have been satisfied to the same extent unless they agreed to a more advantageous satisfaction of certain creditor;
- d) no particular advantage has been granted to certain creditor of the same rank unless the matter is the advantage granted under letter c)
- e) rights of creditors against the debtor's co-debtors and sureties remain unaffected unless the creditors expressly approved of another solution.

(2) The decree on confirmation of the composition shall become enforceable at the same time as it becomes final and conclusive. The provisions on confirmation of the enforced composition (§ 39 and 40) shall analogously apply to the confirmation of the composition by the court. Should the debtor die before the confirmation of the composition was decided upon, the court shall confirm the composition only if the debtor's entitled heirs stated to agree to the proposed composition no later than during the composition hearing; otherwise the court shall stay the composition.

§ 61

(1) The court shall reject confirmation of the composition even if it was duly approved by the creditors

- a) if there are no reasons for the approval of the composition (§ 50 para. 1);
- b) if any of the creditors was granted particular advantages [§ 60 para. 1 letter d)];
- c) unless the costs of proceedings were paid or their payment was assured within 30 days from adoption of the composition even though the debtor was appealed thereto by the court immediately after the adoption of the composition.

(2) The court may reject confirmation of the composition

- a) if the advantages following therefrom are at a striking variance with its ascertained economical situation;
- b) if it is impossible to gain a sufficient overview about the debtor's economic situation in particular because business books were not properly kept;
- c) if the adopted composition is at a considerable variance with the common interest of creditors.

§ 62

(1) An appeal against the decree confirming the composition may be filed only by the creditors who did not expressly agree to the composition as well as by the debtor's sureties and co-debtors.

(2) An appeal against the decree rejecting the composition may be filed only by the debtor and the creditors who expressed their consent to the acceptance of composition.

§ 63

Effects of the confirmed composition

(1) If the decree confirming the composition has become final and conclusive and the debtor has fulfilled its obligations therefrom fully and in time, it shall come to the discharge of its obligation to pay the creditors the part of the obligation that the debtor was not bound to pay according to the composition; this effect shall occur even if the creditors voted against the acceptance of composition or abstained from vote. At the same time, the debtor's duty to perform his obligations vis-à-vis creditors who did not file their claims according to § 56 para. 1 or § 58 para. 1 shall be discharged.

(2) Confirmation of the composition shall not affect the creditors' rights against the debtor's co-debtors and sureties unless they expressly waived these rights.

(3) Should bankruptcy be adjudicated upon the debtor's property before the complete satisfaction of the debtor's obligation from composition, the creditors' claims in bankruptcy shall be considered satisfied to the extent of the sum that has been actually paid to them under composition.

(4) On the basis of a final and conclusive decree confirming the composition, a claim included in the list of applications may be enforced through judicial enforcement of a decision except for claims disclaimed by the debtor or trustee. The enforcement of a decision may also apply to the enforcement of costs of proceedings determined in the composition unless these costs were paid or assured within the period determined thereto [§ 61 para. 1 letter c)].

§ 64

Consequences of non-fulfillment

Should the confirmed composition not be fulfilled even though the debtor was reminded by a creditor in a registered letter and granted an at least eight-day period to the supplementary fulfillment, all moderations and other advantages granted to him under composition shall expire as for all creditors; rights granted by the composition against other persons shall remain unaffected.

§ 65

Consequences of fraudulent conduct

(1) The creditors shall be entitled to demand a full satisfaction of their claims if the composition was achieved by a fraudulent conduct or by granting of particular advantages to individual creditors. Within three years from finality and conclusivity of the decree on confirmation of composition, the creditor may demand that the court decide on the full satisfaction of its claim or proclaim the particular advantage ineffective; the creditor shall hereby not lose its rights acquired from composition. However, this entitlement shall not apply to the creditors who took part in the fraudulent conduct or prohibited agreements or if they could assert the reasons for ineffectivity during the proceedings on confirmation of the composition.

(2) Should the debtor be sentenced within three years from the confirmation of the composition for an intentionous crime through that it achieved the composition or curtailed its creditor, the composition shall become null and void and the creditors may demand full satisfaction of their claims without further proceedings. The nullity and voidance of the composition shall not affect their rights arisen to them from the composition.

§ 66

Stay and conclusion of composition

(1) The court shall stay the composition by a decree

- a) if the debtor withdraws its application for composition before the composition hearing or unless the application was not accepted by the creditors within 90 days from the approval of the composition; the court may adequately prolong this period if the matter is an economically important enterprise or if an important public interest requires the prolongation;
- b) if the decree on rejection of confirmation of the composition has become final and conclusive;
- c) unless all heirs of the debtor declare no later than during the composition hearing that they agree to the proposed composition (§ 60 para. 2).

(2) The decree on stay of composition shall be published on the official board of the court and also in another appropriate way. The court shall simultaneously announce the stay of composition to the authorities maintaining the commercial registry and real estate records.

(3) The court shall proclaim the composition concluded by a decree as soon as the decree on confirmation of composition has become final and conclusive. This decree shall not be delivered to the participants and no remedy shall be admissible against it; publication of this decree, realisation of relevant records and announcements shall be made in the manner mentioned in paragraph 2.

(4) After the stay or conclusion of the proceedings, the court shall decide by a decree on

remuneration of the trustee and its expenses and shall deliver the decree to the debtor and the trustee. Should it come to adjudication of bankruptcy within 15 days after the stay of proceedings, the costs of bankruptcy shall include the costs of composition.

PART FOUR JOINT PROVISIONS

Provisions on proceedings

§ 66a

(1) Bankruptcy and composition shall be adequately governed by the provisions of Civil Procedure Code unless this Act stipulates otherwise.

(2) The court shall decide by decrees. A hearing shall be ordered if it is stipulated by law or considered necessary by the court.

§ 66b

(1) The court may order a preliminary injunction also for the purpose of assuring of the debtor's property. The court may order a preliminary injunction even without any application.

(2) A decision issued by the court in the course of execution of the supervisory activity (§ 12) shall not be appealable.

(3) Interruption of the proceedings shall not be admissible unless stipulated otherwise by a special regulation.

(4) Missing of a time period shall not be excusable.

(5) Resumption of proceedings shall not be admissible.

§ 66c

(1) Documents may be delivered, the participants may be summoned to the court or notified about necessary facts by publication of the document, writ of summons or notification on the official board of the court and by a simultaneous publication thereof in the Commercial Bulletin; publication in the Commercial Bulletin shall not have to contain grounds. The day of delivery of the document or notification shall be considered the day of their publication in the Commercial Bulletin unless law stipulates otherwise.

(2) The provision of paragraph 1 shall not apply if law stipulates special ways of delivery, summoning or notification for certain persons or cases. Furthermore, it shall not apply to the delivery of the decree on preliminary injunction, on rejection of application for adjudication of bankruptcy, on stay of the proceedings and on appointment of the trustee, his representative, special trustee, preliminary trustee, composition trustee, curator or expert.

(3) Apart from publication on the official board and in the Commercial Bulletin, the court may realise also publication through mass media or publicly accessible computer net if it is useful with regard to the number of participants and to the nature of case.

(4) Summoning of participants to the court done under paragraphs 1 to 3 shall be published for at least 15 days before the date of hearing.

PART FIVE
INTERTEMPORAL AND FINAL PROVISIONS

§ 67

Unless the nature of case excludes so, the bank under this Act shall be also understood a branch of a foreign bank and a saving and credit co-operative.

**Particular provisions concerning
the debtor's managing employees**

§ 67a

(1) Work claims (§ 31 para. 3) of the debtor's managing employees whose labour relationship is founded through appointment mentioned in § 27 para. 5 letter a) and b) of the Labour Code (hereinafter the "managing employees") that arose after adjudication of bankruptcy may be satisfied in the course of bankruptcy (§ 31 para. 1) only to the extent determined by the trustee upon approval of the court.

(2) Work claims of the managing employees under paragraph 1 exceeding the sum determined by the trustee as well as their work claims under § 31 para. 4 shall be satisfied as other claims (§ 32 para. 4 second sentence).

(3) In the framework of composition, the work claims of the managing employees shall have priority only to the sum mentioned in paragraph 1.

(4) Claims of those who are not in an employment relationship with the debtor and, however, execute for the debtor work that is otherwise executed by managing employees shall be satisfied in bankruptcy or composition without any advantages as other claims.

§ 67b

(1) In bankruptcy or composition, the managing employees and persons close to them⁴⁾ must not acquire ownership to the things whose owner the debtor was at the moment of commencement of the proceedings; this rule shall apply even if these things were realised in an auction. These things shall not be transferred to them even within three years from the conclusion of bankruptcy or composition. Legal acts (agreements) done at variance with this provision shall be null and void.

(2) Provision of paragraph 1 shall also apply to the debtor's associates if the debtor is a general commercial partnership, a limited partnership or a limited liability company if the associate executes the position of managing employee under paragraph 1. The same rule shall apply to shareholders of joint stock companies if they are active in its bodies or hold shares corresponding to more than 10 % of the stock capital. The court may decide upon an exception in grounded cases.

**Particular provision concerning entrepreneurs
doing business in agricultural production**

§ 67c

(1) During the period from April 1 to September 30, a bankruptcy is inadmissible to adjudicate upon a debtor who is a legal entity or an individual whose scope of activity predominantly

includes original agricultural production; the course of periods for filing the application to approve of the period of protection as well as the course of the period of protection under § 5a and 5c shall not be interrupted. The effects under § 5d shall last even during this period.

(2) Original agricultural production shall be understood operation of farms on agricultural lands resulting in vegetable or animal products before their further processing.

§ 67d
left out

§ 68
Relation to restitution claims

(1) Things that are to be surrendered to the entitled persons under acts regulating moderation of certain property injustices⁷⁾ shall be included to the estate only if the restitution claims were not asserted within the legal periods or were rejected.

(2) The bearers of claims to compensation under regulations mentioned in paragraph 1 shall be considered priority creditors and these claims shall be satisfied as first class claims.

⁷⁾For example Act No. 403/1990 Sb. on moderation of the consequences of certain property injustices, as amended by Acts No. 458/1990 Sb. and No. 137/1991 Sb., Act No. 87/1991 Sb. on extrajudicial rehabilitations, Act No. 229/1991 Sb. on regulation of ownership relations to land and other agricultural property.

§ 69
Bankruptcies with a foreign element

(1) Unless stipulated otherwise by an international agreement of which the Czech Republic is a party, bankruptcy adjudicated by the court shall apply also to the debtor's movable property abroad.

(2) If the debtor's property is subject to bankruptcy proceedings abroad and no bankruptcy has been adjudicated upon him by a Czech court, the debtor's movable property located on the territory of the Czech Republic shall be surrendered to the foreign court upon its request if the foreign state keeps reciprocity. However, the debtor's movable property can be surrendered abroad only after the satisfaction of rights to exclude a thing from the bankruptcy estate and rights to a separate satisfaction (§ 28) acquired before the request of the foreign court or other foreign authority arrived.

Intertemporal and final provisions
§ 70

Pending proceedings on liquidation of property under § 352 to 354 of the Code of Civil Procedure^{1*)} shall be finished according to the hitherto provisions.

^{1*)} Act No. 99/1963 Sb., Civil Procedure Code, as subsequently amended.

§ 71

The Ministry of Justice of the Czech Republic shall issue a decree regulating

- a) details concerning the list of trustees, particular trustees, composition trustees and representatives of the trustee and concerning their remuneration in bankruptcy and composition proceedings, details concerning the list of filed claims, the treatment of the applications, their custody and inspection;
- b) rules of bankruptcy and composition proceedings.

§ 72

The provisions of § 352 to 354 of the Act No. 99/1963 Sb., Civil Procedure Code, shall be repealed.

§ 73

This Act shall become effective on October 1, 1991.