

# **LEGISLATIVE DECREE No304**

OF 24 DECEMBER 1942

## **CODE OF COMMERCE**

**( including modifications )**

The President of the Lebanese Republic , whereas the proclamation of 26 November 1941 , on the proposal of the Minister of Justice , and after approval by the Council of Ministers on 24 December 1942 , decrees what follows

### **BOOK V**

#### **COMPOSITION AND SIMPLE INSOLVENCY**

##### **TITLE I - COMPOSITION**

###### **Article 459**

Any trader , either before his suspension of payment , or within the ten days of his suspension of payment , may apply to the Court of primary jurisdiction where lies his main establishment , and ask for the convocation of all his creditors to propose them a scheme of arrangement ( composition ).

###### **Article 460**

In support of his petition the trader is required to submit his compulsory trade books , kept in accordance with regulations for the last three years , or since the beginning of his going into trade in which he has engaged for at least three years ; the evidence of his registration on the trade register ; a detailed estimate statement of his operations ; a list of all his creditors , stating their names , the figure of their respective claims and their domicile ; and , in the case of a company , all such documents as may prove that the company has been formed in conformity with regulations .

The trader shall state the reasons which have prompted him to petition for a scheme of arrangement . He shall indicate the dividends which he intends to propose to his creditors or the reasons for which he may not immediately declare his proposals . He shall equally state the real or personal guarantees that he offers his creditors .

In all cases , the proposed dividend must be at least 50 % of his unsecured claims payable within a year , of 75 % if maturity is within eighteen months , of 100 if it is three years away .

###### **Article 461**

The Court , after hearing the Public prosecutor , shall be required to declare the petition unreceivable

1 - If the petitioner has failed to deposit the books and documents designated in the preceding article ;

2 - If the petitioner has been previously convicted for fraudulent bankruptcy , forgery , theft , breach of trust , swindling , embezzlement of public funds , or if he has not honored commitments to which he has pledged himself on the occasion of a previous scheme or if , having been declared insolvent , he has not fully paid all his creditors or has failed to meet in full the obligations deriving from composition ;

3 - If he offers no serious guarantees enabling him to pay the proposed dividend ;

4 - If he has absconded after closing down all his stores or if he has embezzled or fraudulently reduced his patrimony .

In all such cases , the Court shall officially adjudicate insolvency , if the trader has stopped paying out his trade debts .

## **Article 462**

If the Court acknowledges that the petition is in order and receivable , it shall ordain , by a ruling subject to no appeal , the convocation of creditors before a judge delegated to discuss and debate the proposal of the scheme of arrangement .

It shall designate the place , the day and the hour of the meeting , within a maximum 30 days dating from the ruling , as well as the time - limit in which such ruling shall be published and notified to the creditors .

It shall appoint a trustee , who may not be one of the creditors , whose duty will consist in supervising , meanwhile , the management of the business , the auditing of its liabilities and assets , *examining how* the debtor has acted and submit a report to the meeting of creditors .

It shall allow the petitioner a time - limit not exceeding five days so that he may complete the nominal list of all his creditors , whenever the trader has stated in his petition the reasons why it is impossible for him to produce such a complete list immediately .

At the diligence and under the signature of the delegated judge and the Clerk , the ruling shall be mentioned immediately after the last entries on the books , which shall be returned to the petitioner .

## **Article 463**

The ruling shall be , at the Clerk's diligence , published by means of posters affixed on the Court door and by an abstract inserted in a media of legal advertising , and entered on the trade register , as shall be determined by the time - limit set down in the ruling itself .

If the nominal list of the creditors is incomplete or if a wider publicity is deemed necessary , the Court may designate other newspapers , even foreign ones , in which an insertion shall have to be made .

The Clerk shall communicate to each creditor , by registered letter or by cable according to what the distance may require , a Notice setting out the names of the debtor , of the delegated judge and the trustee , the date of the ruling summoning the creditors , the place and date of the meeting , with summary indication of the debtor's proposals .

The documentary evidence proving that the publication and communications to the creditors have been made , must be annexed to the file .

#### **Article 464**

Beginning from the filing of the petition and until the ruling in confirmation of the scheme arrangement has gained power as an adjudicated matter , no creditor in possession of a claim prior to the ruling shall be allowed , under penalty of nullity , to initiate or proceed with action for enforcement , acquire a preferential claim whatsoever on the debtor's property , nor have a mortgage registered .

Prescriptions , time - limitations or forfeitures , which would have been interrupted as a result of the aforementioned acts , remain suspended

Ordinary claims having no preferential rights shall be considered as forfeited and the running of interests shall be suspended in respect of the creditors only .

The sums due by way of taxes , even preferentials , shall not be submitted to the effects provided in the present article .

#### **Article 465**

Throughout the procedure of the scheme of arrangement , the debtor shall retain the management of his property and shall continue all normal operations pertaining to his enterprise , under the trustee's supervision and the directives of the delegated judge . Both can always examine the trade books .

#### **Article 466**

Donations and other acts , gratuitous or as security , granted by the debtor in the course of procedure , shall be no bar to the creditors .

It shall be likewise with acts by which the debtor shall have acquired loans , even in the form of a Bill of Exchange , operated transactions or compromises , granted transfers of property which are not within the scope of trade , mortgages or pledges , without the authorization of the delegated judge , who shall not give such authorization except in cases of evident utility .

#### **Article 467**

Should the debtor contravene the provisions of the preceding two articles or if it is proven that he has concealed part of his assets or that he has fraudulently omitted certain claims or , broadly speaking , committed any fraud , the delegated judge shall refer the matter to the Court Council Chamber , which shall adjudicate insolvency , without prejudice to other penal sanctions incurred by the trader .

#### **Article 468**

After examining the debtor's books and titles and with such information as he may be able to gather , the trustee shall check the list of creditors and debtors , entering thereon all the

necessary modifications with indication of the respective amount of claims and debts . If necessary , he shall require the interested parties to furnish useful clarifications .

He shall then draft a detailed report on the debtor's trading situation and his administration , depositing such report in the Clerk's office at least three days before the meeting provided for the arrangement scheme .

### **Article 469**

The creditor's meeting shall be chaired by the delegated judge .

Any creditor may have himself represented by a special proxy duly vested with power ; such power may be given in writing and without formality , on the letter or telegram giving notice of the meeting

The debtor or his legal representative shall have to appear in person . Representation by special proxy shall be admitted only in the event of the debtor's absolute impediment established by the delegated judge .

Following the reading of the trustee's report , the debtor shall table his final proposals .

If , at the appointed day , it is not possible to terminate all the operations , continuation shall be reputed adjourned to the nearest working day , without further notice to the creditors even the absentees , and so forth until the end of the operations .

### **Article 470**

Any creditor may put forward the reasons for which he considers as challengeable such or such a claim , or the debtor as undeserving the favor he claims , or the proposals tabled by him as unacceptable .

The debtor shall be entitled to answer and shall have to furnish all the clarifications that may be requested .

Summary mention of these incidents shall be made in the proces - verbal , to which the documents shall be attached .

### **Article 471**

The scheme of arrangement shall have to be approved by all the creditors who have cast their votes and who shall be required to represent at least three - quarters of all the claims unpreferential or unguaranteed by mortgage or by pledge .

Creditors in possession of a mortgage , a preference or a pledge may however combine to form this majority , if they renounce using their surety .

Such renunciation may apply only to part of the claim and its accessories , provided that the portion of the sum for which it occurs is determined and is no less than one - third of the aggregate amount of the claims .

The vote cast without declaration of limited renunciation and the subsequent adherence to the agreement which shall be dealt with hereinafter carries , as a matter of right , renunciation of the surety over the entire claim .

The Court , in its ruling of confirmation , shall take into account the possible increase of the debtor's assets as a result of these votes or of these adherences .

The effects of renouncing a preference , a mortgage or a pledge , even partial , shall rightfully cease , whenever the scheme has not materialized or has been cancelled .

### **Article 472**

To form the majority indicated in the preceding article , claims of the debtor's spouse shall not be accounted , nor shall be those of family relations and relations by marriage up to the fourth degree inclusive .

Shall equally be excluded from the vote the transferees and purchasing parties of such claims in the year preceding the petition for an arrangement scheme .

Conveyance of claims , subsequent to the ruling summoning the creditors , shall be no title to voting on the scheme .

### **Article 473**

The delegated judge shall have the adherence entered in the proces - verbal which shall be signed by all the adherents .

In the majority , account shall be taken of the adherences sent by cable or letter , addressed to the delegated judge or the Clerk within five days following the closure of the proces - verbal of the meeting .

These adherences shall be entered by the Clerk , on the margin of the proces - verbal , and annexed .

### **Article 474**

By ordinance in the proces - verbal before the affixing of signatures , the delegated judge shall refer the parties to a determined session of the Court for confirmation of the scheme , within a maximum time limit of 20 days .

### **Article 475**

Three days before the Court session set for confirmation , the trustee shall deposit in the Clerk's office his findings on whether the scheme of arrangement is receivable .

At the session the delegated judge shall table his report . Both the debtor and the creditors shall be entitled to intervene in the proceedings .

The Court may summon the trustee to the Council Chamber to ask him for information , subject to prior notice to the debtor and creditors who may have intervened .

### **Article 476**

The Court , in its award of *confirmation* , shall appreciate in a provisional *manner* and through presumption , the importance and the amount of the declared claims , so as to establish if the required majority exists , without prejudice to the definitive rulings that they may intervene .

### **Article 477**

The Court , if it acknowledges that the debtor deserves the benefit of a composition , that the oppositions referred to in the preceding articles allow the existence of the required majority , that the composition proposals not less than the legal minimum are legitimate and that the execution thereof is assured , shall grant the solicited confirmation .

In the same ruling , it shall ordain the delivery of the dividend which may be assigned to the declared claims .

If , on the contrary , confirmation is not *granted* , the Court shall adjudicate insolvency , as a matter of course .

### **Article 478**

Except for a contrary covenant consented in the scheme in another deliberation , taken within the framework of the aforementioned conditions and confirmed by the Court , the debtor shall not be entitled , prior to executing in full the commitments set down in the scheme , to alienate or mortgage his buildings , engage in pledge , or in general divert part of his assets in a manner other than that which is required by the nature of his trade and of his industry .

Any act performed in violation of this prohibition shall be of no effect in respect of creditors prior to the confirmation of the scheme .

### **Article 479**

Rulings granting or rejecting the confirmation of a scheme shall be published in accordance with the rules which shall be laid down hereinafter for the order adjudicating insolvency .

### **Article 480**

Dissenting creditors may , within five days of the final closure of the proces - verbal , oppose the confirmation of the scheme of arrangement . Such opposition must be motivated and notified to the debtor and the trustee .

Appeal is receivable only from the debtor himself and from those creditors who have moved an opposition . The time - limit for appeal is fifteen days .

As soon as the award of confirmation has become final , the trustee's functions officially come to an end , except if a specific clause of the scheme of arrangement had charged the trustee with the control of its execution .

The charges and sums which shall be due to the latter shall be set by the delegated judge ; any agreement to the contrary is void .

### **Article 481**

Approval shall render the scheme of arrangement enforceable upon all the creditors .

The creditors , even if they have voluntarily agreed to the scheme , shall retain all their rights unimpaired against all codebtors , the debtor's transferees and securities , who may however intervene in the instance to table their remarks on the scheme of arrangement .

### **Article 482**

The benefit of the scheme of arrangement granted to a company applies even to those partners who are personally held for the company's liabilities , except for provisions to the contrary .

### **Article 483**

In the case of any trading company having issued debentures amounting to more than twenty per cent of total liabilities , the scheme of arrangement may be granted only in so far as the proposals have been approved by the meeting of debenture - holders , deliberating in accordance with the terms of quorum and majority laid down for joint - stock companies .

The adherence of the group of debenture - holders would always be required , irrespective of the ratio of debenture - holder liabilities to total liabilities , when the scheme of arrangement should include special conditions not conforming to those which might have been fixed at the time of issue in respect of debenture - holders .

### **Article 484**

Whenever it shall become useful to convene a meeting of the debenture holders , the time - limit which has been stated above for the convening of creditors may be extended up to 60 days .

### **Article 485**

Holders of debentures with redemption premiums shall produce not only for the price of issue , but also for that portion of the premium which the time elapsed has earned them .

### **Article 486**

On the request of any creditor , put forward within three years dating from the publication of the award of confirmation , the Court may cancel the scheme of arrangement and declare the debtor's insolvency , if it is proved that the latter has fraudulently inflated his liabilities or concealed an appreciable part of his assets .

No other action in nullity of the scheme of arrangement shall be received after its confirmation .

Should the scheme of arrangement be cancelled , the sureties who have not been party to the fraud shall be released of the commitments accepted by them in the scheme , and the mortgages and other guarantees constituted in the same deed shall lapse as a matter of right.

### **Article 487**

If the debtor fails to discharge in full his obligations under the scheme of arrangement , any creditor may - after the sureties have been discussed and the rights conceded by way of

guarantee have been asserted - cancel the scheme and have the debtor's insolvency adjudicated .

### **Article 488**

The scheme of arrangement may have provided that the trader shall be definitively released of the reduction under the scheme only if he does not revert to better fortune , but the application of this clause must be limited to a period of five years , and to the case when the debtor's assets happened to exceed his liabilities by at least twenty - five per cent .

## **TITLE II - INSOLVENCY ( 1 )**

### **CHAPTER 1 - Opening of insolvency**

#### **Article 489**

Subject to the enforcement of the provisions of the preceding title , is in state of insolvency any trader who suspends the payment of his trade debts or who upholds his credit only by means manifestly illicit .

#### **Article 490**

Insolvency is declared by adjudication of the Court of primary jurisdiction in the principal place of business .

Such adjudication is provisionally executory .

If several Courts should simultaneously adjudicate insolvency to the same trader , there would be a case for settlement by judges .

The aforementioned Court is competent to take cognizance of all actions stemming from the rules proper to insolvency .

#### **Article 491**

The Court may be acquainted first by the trader's own declaration ; the trader is bound , under penalty of committing an offence of simple bankruptcy , to make this declaration within twenty days of his suspending payments , at the same time as he submits a detailed balance sheet duly certified true to the situation of his liabilities and assets .

#### **Article 492**

The Court may also be acquainted by the writ of one or several creditors , which shall be served within three days . In urgent cases , such as when the trader has closed his stores and absconded , or has caused the disappearance of a substantial portion of his assets , the creditors shall be entitled to act by mere petition without a writ of summons . In this event the Court shall adjudicate in Council Chamber .

#### **Article 493**

The Court is entitled to decree the conservation measures required to safeguard the creditors' rights , either on order from the Public Prosecutor's office , or on its own initiative .

It could even , if need be , adjudicate insolvency , in its own right .

( 1 ) In the present legislative text , " insolvency " is meant to connote the French word " faillite " , whereas " bankruptcy " is meant to connote the French word " banqueroute " .

#### **Article 494**

The insolvency of a trader who has retired from business or is deceased may be pronounced within the year of the suspension of trading or of death if the facts of suspension of payment are prior to these events .

But the deceased trader's heirs may not themselves petition for his insolvency .

#### **Article 495**

The adjudication of insolvency determines the period in which payments have been suspended .

But this period may be fixed at an older date by one or several carry - over rulings pronounced subsequently on the commissioner - judge's report , either officially , or on the request of any interested party , notably the creditors acting individually .

Such a request shall not be receivable after the time - limit set by article 551 , at the end of which the statement of the debts is definitively closed . At the expiry of this time - limit , the period of suspension of payment shall remain irrevocably determined in relation to the creditors .

The period of suspension of payments may not be fixed to a prior date of more than eighteen months from adjudication of insolvency .

#### **Article 496**

The adjudication of insolvency , as well as the carry - over ruling of the date of suspension of payment must be , through the good offices of Receivers , posted within five days in the Court auditorium which has pronounced them and in the premises of the nearest Exchange . They must equally be inserted by abstracts in a press medium , within the same time - limit .

This publicity shall be made in the district where insolvency has been declared as well as in the various places where the insolvent has trading establishments .

The said adjudication and ruling shall equally be entered on the trade register . and communicated to the public prosecutor , through the good offices of the Clerk .

#### **Article 497**

Adjudication and ruling are subject to opposition and appeal . The same applies in respect of all rulings in insolvency matters , except for provisions to the contrary in the present code .

The time - limits for opposition shall be of a uniform eight days and the time - limits of appeal of fifteen days , dating from the rulings . However as regards those rulings subject to

publicity formalities and insertion by abstract in newspapers , the time - limits are computed from the day when formalities have been completed . Appeal is judged by the Court within three months .

### **Article 498**

When in the course of a civil , commercial or penal suit , the judges incidentally ascertain the evident insolvent state of a trader , they may , though insolvency has not been declared , apply its basic rules as they are laid down in the present book .

## **CHAPTER 2 - Immediate effects of adjudication of insolvency**

### **Article 499**

The name of tradesmen declared insolvent and not rehabilitated shall be posted on a Notice board at the door of each court and in the Ring of all Exchanges .

Such posting does not take place if the tradesman was dead at the time of adjudication of insolvency , and it shall be struck off within six months of his death in all other cases .

### **Article 500**

Every insolvent is additionally the object of civic forfeitures : he is no longer an elector , nor is he eligible to political or professional assemblies ; he can hold no public office or function .

### **Article 501**

The adjudication of insolvency carries with it , as a matter of course , from the very day it was declared , relinquishment by the insolvent in favor of Receivers , of the management of all his property , even of those which may revert to him during the period of insolvency .

The insolvent may not notably alienate any item of his property ; he can no longer effect any payment , nor receive any , unless this concerns the settlement made in good faith of a trade Bill ; he can contract no obligation , or take legal proceedings , except as party to the case in actions initiated by the Receivers .

But he may take all conservation actions designed to safeguard his rights .

### **Article 502**

Excluded from relinquishment are those rights attaching exclusively to the person of the insolvent or to his quality as family head as well as those which may put at stake an interest of an essentially moral order , except where Receivers are intervening parties in a suit which is to lead to a conviction involving money .

Equally outside the scope of relinquishment are those items of property which by law are not subject to distraint , as well as earnings which the insolvent can secure by his activity or his industry , so long as they remain within the limits set by the commissioner - judge as corresponding to the needs of his subsistence and that of his family .

### **Article 503**

Adjudication of insolvency suspends , in relation to unsecured creditors and creditors provided with general preference , individual proceedings which are henceforth in the hands of Receivers , no distinction being drawn between a civil or a trade debt .

#### **Article 504**

The adjudication of insolvency suspends , in relation to capital stock only , the run of interests on debts not guaranteed by a preference , a pledge or a mortgage .

The interests on guaranteed debts may not be claimed except on sums resulting from the sale of goods pertaining to surety .

#### **Article 505**

The adjudication of insolvency entails in relation to the insolvent , but not in relation to his - co - obligees , the forfeiture of the term , even on behalf of such creditors as may hold a surety .

Holders of debentures with redemption premiums shall deliver particulars immediately as has been provided under the title of the scheme of arrangement .

#### **Article 506**

If the insolvent is the owner of buildings or the holder of actual real estate rights , the adjudication of insolvency is submitted to the rules of publicity applicable on mortgages . It is inscribed through the Receivers' care and gives rise , from the date of inscription , to a compulsory mortgage on behalf of capital stock .

#### **Article 507**

Are void , relatively to the capital stock , when they have been made by the debtor , from the period of suspension of payment such as has been laid down by the Court or within twenty days prior to such period

1 - Gratuitous acts and conveyances , except the usual minimal donations , the creation of wakfs ( endowments for charitable purposes ) .

2 - Advance payments , under any form they may have been made .

3 - Payment of mature cash debts effected otherwise than in cash , Bills of Exchange , money orders and broadly speaking any giving in payment .

4 - The creation of a conventional or juridical mortgage , or a pledge or other surety on a debtor's goods as collateral of a prior debt .

When the giving in payment has been effected through the conveyance of a building , nullity shall have effect only in relation to the creditor who has dealt with the insolvent and shall not impair the rights of subsequent acquirers by way of payment , if such acquirers have acted in good faith .

#### **Article 508**

All other payments effected by the debtor for mature debts and all other acts he has transacted against considerations after the suspension of payments and before the adjudication of insolvency , may be made void if , on the part of those who have received from him or dealt with him , such acts have occurred with due knowledge of the suspension of payment .

### **Article 509**

The cancellation of the aforementioned acts shall give rise to proceedings for return .

In the case of payment of a Bill of Exchange or of a cheque , proceedings may not be taken except against the person for whose account the Bill has been provided . If it is a promissory note , proceedings may be taken only against the first endorser . In either case , proof must be established that the person from whom restitution is demanded was aware of the suspension of payment at the time when the title was issued .

### **Article 510**

Shall be void relatively to capital stock the inscriptions of mortgages made after the registration of the adjudication of insolvency .

Shall be subject to nullity such inscriptions as have been taken after the period of suspension of payments or within the twenty days preceding it , if more than fifteen days have elapsed between the date of the creation of the surety and that of inscription , and if the delay has caused prejudice to the creditors .

### **Article 511**

The actions in nullity provided under articles 507 , 508 and 510 shall be time - limited to eighteen months from the day of the adjudication of insolvency .

## **CHAPTER 3 - Insolvency procedure**

### **Section 1 - Insolvency organs**

#### **Article 512**

The management of the insolvent's patrimony is entrusted to a salaried proxy , the Receiver .

The adjudication of insolvency appoints one or several Receivers .

The number of Receivers may be , at any period , raised to three ; their charges and fees shall be taxed by the commissioner - judge , in conformity with the rates annexed to Legislative Decree No 79 L of 13 March 1933 . The debtor and creditors may oppose the tax within eight days ; opposition shall be dealt with by the Court in Council Chamber .

#### **Article 513**

By ordinance of the commissioner - judge , one or two supervisors may , at any period , be appointed from among those creditors who have applied for the function .

#### **Article 514**

None of the family relations or the relations by marriage of the insolvent up to the fourth degree inclusive may be appointed Receiver .

#### **Article 515**

If the case requires the addition or replacement of one or several Receivers , the matter shall be referred to the commissioner - judge who shall proceed with the appointment .

#### **Article 516**

If several Receivers have been appointed , they cannot act but collectively .

However , one or several of them may be given special authority by the commissioner - judge to act separately in certain acts of administration . In the latter case the authorized receivers shall be solely liable .

#### **Article 517**

If any complaints arise against any of the Receivers' operations , the commissioner - judge shall deal with the case within three days .

The commissioner - judge's decision shall be provisionally executory .

#### **Article 518**

The commissioner - judge may , either on complaints filed by the insolvent or by the creditors , or even in discharge of his duties , propose the dismissal of one or several of the Receivers .

If within eight days the commissioner - judge has not done justice to the complaints addressed to him , such complaints may be brought before the Court .

The Court , in Council Chamber , shall hear the commissioner - judge's report and the Receivers' explanations and shall in the course of the sitting give its verdict on the dismissal .

#### **Article 519**

Ruling in respect of the appointment or the dismissal of Receivers is open to no appeal .

#### **Article 520**

In its adjudication of insolvency , the Court shall designate one of its members as commissioner - judge .

#### **Article 521**

The commissioner - judge shall be specially charged to speed up and supervise the operations and management of the insolvency .

He shall report to the Court on all the issues that the insolvency may give rise to and which shall be within the competence of - this Court .

### **Article 522**

The commissioner - judge's ordinances are immediately lodged in the Clerk's office .

They shall in all cases be subject to opposition from any interested party before the Court , which may intervene officially . Opposition shall be formed by simple declaration in the Clerk's office within five days dating from the ordinance . The Court shall deal with the case within eight days by a ruling open to no recourse .

### **Article 523**

The Court may , at any time , replace the commissioner - judge pertaining to the insolvency by another from its own members , no recourse being possible against this ruling nor against that appointing the commissioner - judge .

## **CHAPTER 4 - Solutions to insolvency**

### **Section 1 - Simple Scheme of Arrangement**

#### **Article 557**

Within three days of the closing of the statement of debts or , in the event of dispute , within three days of the Court ruling in application of article 553 , the commissioner - judge shall have the Clerk summon the creditors whose claims have been received in order to deliberate on the formation of the scheme of arrangement . The insertions in newspapers and the letters convening them shall indicate the purpose of the meeting .

The provisionally admitted creditors shall be advised individually by registered letter within three days of the decision taken by the Court in their respect .

#### **Article 558**

At the place , date and hour which shall be fixed by the commissioner - judge , the meeting shall be held under his chairmanship ; the creditors admitted definitively or provisionally shall attend there in person or by proxy .

The insolvent shall be summoned to this meeting ; he shall be required to attend in person and may not be represented there except for valid reasons duly approved by the commissioner - judge .

#### **Article 559**

The Receivers shall report to the meeting on the state of the insolvency , on the formalities that shall have to be fulfilled and the operation that will have taken place ; the insolvent shall be given a hearing .

The Receiver's report will be remitted , duly signed by them , to the commissioner - judge who shall draft the proces - verbal of what has been said and decided in the meeting .

## **Article 560**

Subject to nullity , the scheme of arrangement subsequent to insolvency may not be accepted by the deliberating creditors except if the following conditions have been met .

The scheme shall not be established except by the vote of a number of creditors forming the majority and representing , on the other hand , two thirds of the amount of the debts definitively admitted or admitted provisionally , in accordance with section 3 of chapter 3 . However the claims of those who have not taken part in the vote shall be deducted for the assessment of majorities in relation to number and sums .

Shall be excluded from the vote the debtor's spouse , his family relations and relations by marriage up to the fourth degree as well as their transferees within the framework of the conditions laid down under the heading of scheme of arrangement .

## **Article 561**

Mortgagees , pledgees and preferential creditors shall be entitled to the vote , except if they relinquish their sureties , according to the conditions laid down under the heading of the scheme of arrangement .

## **Article 562**

The scheme of arrangement shall be , subject to nullity , signed on the spot . If it is accepted only by a number majority or a majority of two - thirds of the sum , deliberation shall be continued within eight days , at the latest .

In this event , the creditors attending or legally represented having signed the proces - verbal of the first meeting , shall not be bound to attend the second meeting ; the resolutions they have taken and the adherence they have given remain definitively acquired if they have not come to modify them in this last meeting .

The creditors' signature in the meetings may be replaced by a signature on a ballot - paper which is annexed to the proces - verbal

## **Article 563**

If the insolvent has been convicted for fraudulent bankruptcy , the scheme of arrangement may not be formed .

When a preliminary investigation for fraudulent bankruptcy has been initiated , the creditors shall be convened to decide if they reserve themselves the right to discuss a scheme of arrangement , in case of discharge , and if , in consequence , they put off their decision , until after the end of the proceedings .

This delay may not be pronounced except by the majority of number and sums determined above . If , at the expiry of the delay , there is a case for deliberating a scheme of arrangement , the rules laid down by the preceding article shall apply to the new deliberations .

## **Article 564**

If the insolvent has been convicted as simple bankrupt the scheme of arrangement may be formed . Nevertheless , if proceedings have been initiated , the creditors may postpone deliberations until after the end of the proceedings , conforming themselves to the provisions of the preceding article .

### **Article 565**

If the case concerns a trading company having issued debentures , the scheme of arrangement may not be granted except if it is approved by the meeting of debenture - holders , having expressed their opinion in the case and according to the conditions specified under the heading of the scheme of arrangement .

### **Article 566**

All the creditors who have been given right to join in the scheme or whose title has been acknowledged since , as well as the representatives of the debenture - holders group , if any , may oppose the scheme .

Subject to nullity , opposition shall be motivated and notified to the Receiver and the insolvent , within eight days dating from the scheme of arrangement or the meeting of the debentures - holders ; it shall include a writ of summons to the first session of the Court .

If only one Receiver has been appointed and if he joins the contestants of the scheme , he will be required to call for the appointment of a new Receiver towards whom he shall have to fill the forms prescribed in the present article .

### **Article 567**

Approval of the scheme of arrangement shall be pursued before the Court , at the request of the most diligent party , but the Court shall not adjudicate before the expiry of eight days as laid down in the preceding article .

If oppositions have taken shape during this period , the Court shall adjudicate on these oppositions and on the confirmation in one and the same ruling .

If opposition is entertained , cancellation of the scheme of arrangement shall be pronounced in relation to all the parties concerned .

### **Article 568**

In all cases , before judgement is passed on the confirmation , the commissioner - judge shall report to the Court on the characters of the insolvency and the admissibility of the scheme of arrangement .

### **Article 569**

If the aforementioned rules are not observed , or when the motives stemming from public interest or from the creditors' interest shall appear likely to prevent the scheme of arrangement , the Court shall refuse its confirmation .

It shall likewise be allowed to refuse confirmation of the scheme if the latter does not embody a clause providing for the appointment by the Court president of one or several

trustees intended to supervise its execution , to lift the mortgage on the capital stock , if the creditors have so authorized him , and to supervise the selling of the assets .

### **Article 570**

The confirmation of the scheme of arrangement shall render compulsory upon all creditors , whether listed or not listed on the balance sheet , checked or not checked , and even on those creditors domiciled outside the Lebanese territory , as well as on those who had provisionally been admitted to deliberate , whatever sum the Court might subsequently allot them .

But the scheme of arrangement shall be no bar to mortgagees and preferential creditors who have not relinquished their surety , nor to unsecured creditors whose claim was born in the course of the insolvency .

### **Article 571**

As soon as the verdict of approval has gained power of enforcement , the effects of the insolvency shall cease , without prejudice to those civic forfeitures referred to in article 500 .

The Receivers , whose functions come to an end , shall give final account to the insolvent in the presence of the commissioner - judge ; this account shall be debated and closed . They shall remit the insolvent all his goods , books , papers and personal belongings . Discharge therefore shall be given by the insolvent .

A comprehensive report shall be drafted by the commissioner - judge whose duties shall cease .

In the event of disputed matters , the Court shall adjudicate .

### **Article 572**

The scheme of arrangement implies time - limits for the payment of debts , which shall be staggered over successive installments . Likewise , it generally involves rebates to the debtor amounting to a more or less substantial portion of his liabilities , though such rebates leave behind them a natural obligation .

The scheme of arrangement may be granted only conditionally pending the return to better fortunes , according to the conditions laid down under the title of composition .

### **Article 573**

Mortgage of the capital stock remains for the settlement of the dividend under the scheme of arrangement .

### **Article 574**

Creditors can further demand that the execution of the scheme is guaranteed by one or several sureties .

### **Article 575**

As long as the dividend under the scheme of arrangement has not been paid , the debtor shall not be entitled to perform acts of abnormal disposal and not required for the very operation of the trade , unless otherwise provided in accordance with the rules set down in this respect under the title of composition .

### **Article 576**

No proceedings in nullity of the scheme of arrangement shall be receivable subsequent to the approval , except for a fraud uncovered after this approval and resulting either from the concealments of the assets or the feather - bedding of the liabilities .

Such proceedings may be initiated by any of the creditors , but only within the five years following the uncovering of the fraud .

The scheme of arrangement shall be equally cancelled following the condemnation of the insolvent for fraudulent bankruptcy .

Cancellation of the scheme of arrangement releases the sureties not accomplices to the fraud .

### **Article 577**

When , after the confirmation of the scheme of arrangement , the insolvent is sued for fraudulent bankruptcy and placed under a warrant of deposit or arrest , the Court may prescribe such measures of conservation as it deems necessary . These measures shall cease , as a matter of right , on the day of the declaration that there is no case for proceedings , or adjudication of discharge , or absolution .

### **Article 578**

Upon the failure of the insolvent to execute the conditions of the scheme of arrangement , the annulment of the scheme may be proceeded with , against him before the Court , in the presence of the sureties , who would be duly summoned , if any exist .

### **Article 579**

On sight of the conviction judgment for fraudulent bankruptcy , or by the ruling which shall pronounce cancellation , or the annulment of the scheme of arrangement , the Court shall appoint a commissioner - judge and one or several Receivers .

These Receivers may have the seals affixed .

They shall proceed without delay , with the assistance of the conciliation magistrate , on the old stock - taking , with the re - examination of the valuables and papers , and proceed , if the case so requires , with the fixing of a supplementary stock - taking .

They shall equally strike a supplementary balance sheet .

They shall immediately put up on billposts and insert in appropriate newspapers , alongside an abstract of the ruling appointing them , an invitation to the new creditors , if any exist , to produce within fifteen clear days their titles to claims for verification . Such verification is affected in the manner provided in Section 3 of Chapter 3 .

## **Article 580**

Verification of the titles to claims duly produced in accordance with the preceding article , shall be proceeded with without delay .

It shall not be deemed necessary to undertake a fresh verification of the claims previously received and confirmed without prejudice however to the rejection or reduction of those which since then had been paid totally or partially .

## **Article 581**

On the termination of these operations , if no fresh scheme of arrangement intervenes , the creditors shall be convened to voice their opinion on whether the Receivers should be maintained or replaced .

## **Article 582**

Acts performed by the insolvent subsequently to the ruling of approval and prior . to the cancellation or annulment of the scheme of arrangement shall not be void except in the event of fraud relative to the rights of the creditors .

## **Article 583**

Creditors prior to the scheme of arrangement , shall recover their rights in full in respect of the insolvent only , but they may not figure in the capital stock , except for the following proportions , namely : if they have received no share in the dividend , for the whole of their claims ; if they have received part of the dividend , for the portion of their original claims corresponding to that portion of the promised dividend which they have not cashed .

The provisions of the present article shall be enforced in the event of a second insolvency occurring without prior cancellation or annulment of the scheme of arrangement .

## **CHAPTER 5 - Special rights that may be advocated against the insolvency**

### **Section 1 - Creditors with several co - debtors**

#### **Article 603**

The creditor holding an undertaking by the insolvent and other joint obligees who are insolvent , shall participate in the distribution of all the capital stocks , and shall be entered therein for the nominal value of his title until full payment .

#### **Article 604**

No recourse by reason of paid dividends is open to insolvencies of joint obligees the ones against the others , except when the amalgamation of the dividends that would be yielded by these insolvencies would exceed the total of the claim , in principal and accessories , in which

case such excess shall revert , according to the rotation order of the undertakings , to those joint obligees who would have the others as guarantors .

### **Article 605**

If the creditor holding joint undertakings between the insolvent and other joint - obligees has received , before the insolvency , a first payment against his claim , he shall be included in the capital stock only after deduction of this first payment , and shall retain , in respect of what shall remain due , his rights against the joint obligee or the surety .

The joint obligee or the surety who shall have effected the partial payment shall be included in the same capital stock for that all he has paid in discharge of the insolvent .

### **Article 606**

Notwithstanding the scheme of arrangement , the creditors shall retain their action for the total of their claims against all the co - obligees of the bankrupt , who are entitled to intervene in the proceedings for the approval of the scheme of arrangement , so that they may put forward their remarks .

## **TITLE III - SUMMARY PROCEDURE**

### **Article 630**

If as a result of the balance sheet tabled by the insolvent or of subsequent information it is shown that the assets of the insolvency are not in excess of two thousand five hundred Lebanese Pounds , or if the dividend to be distributed does not appear to be over ten per cent , the Court may , either on its own initiative , or at the request of the creditors , ordain that the operations of the insolvency shall run their course in accordance with the procedure said to be summary .

### **Article 631**

Summary procedure differs from the ordinary procedure of insolvency by the following particularities

1 - The time - limit of document presentation , opposition , appeal and other procedural time - limits set down in articles 49 , 512 , 548 , 556 and 579 of the present code are reduced by half . If the time - limit is fifteen clear days , it is reduced to eight days . The increase of the time - limit provided under article 548 in favor of creditors domiciled outside the Lebanese territory is subject to no reduction ;

2 - The affixing of seals does not occur ;

3 - Supervisors are not appointed ;

4 - Disputes on claims are solved by the commissioner - judge , except for appeal , if any , before the Court ;

5 - All transactions may be authorized by the commissioner - judge ;

6 - Only one apportionment of the money takes place ;

Disputes relative to the Receiver's accounts and his fees are solved by the commissioner - judge .

## **TITLE IV - BANKRUPTCIES**

### **Article 632**

Cases of simple bankruptcies shall be tried by the Courts of Misdemeanor Police , following proceedings from the Receivers , the creditors or the public prosecutor , and punished by a term of imprisonment from one month to a year subject to extenuating circumstances .

### **Article 633**

Shall be declared simple bankrupt , any failing trader who shall find himself in one of the following cases

- 1 - If his personal expenses or the expenses of his house are deemed excessive ;
- 2 - If he has used up large sums either in operations of sheer chance , or in fictitious Exchange operations or in commodities ;
- 3 - If , subsequently to the period of suspension of payment and with intent to delay his insolvency , he made purchases for underselling ; if , with the same intent , he resorted to loans , circulations of Bills , or other ruinous means to secure funds ;
- 4 - If , after suspension of his payments , he paid a creditor to the prejudice of the capital stock .

### **Article 634**

May be declared simple bankrupt , any failing trader who shall find himself in one of the following situations

- 1 - If he has contracted for the account of another , without receiving values in exchange , commitments deemed too considerable by comparison with his situation when he contracted them ;
- 2 - If he is adjudicated once more insolvent without having honored commitments from a previous scheme of arrangement ;
- 3 - If he has failed to conform to obligations relative to the trade register ;
- 4 - If within twenty days of his suspension of payments he has not made in the Clerk's office the declaration required by the present code , or if this declaration does not contain the names of all the jointly liable partners ;
- 5 - If he has not kept books and taken correct stock ; if these books or stock - takings are incomplete or irregularly kept , or if they do not reflect the true position of his liabilities and assets , though there is no fraud .

### **Article 635**

Charges for proceedings in simple bankruptcy initiated by the public prosecutor may in no case be debited to the capital stock .

In the event of a scheme of arrangement , recourse by the Public Treasury against the insolvent may not be exercised except after expiry of the terms granted by this agreement .

### **Article 636**

Charges of proceedings brought by the Receivers in the name of creditors , shall be borne , in case of a discharge , by the capital stock , and if a conviction ensues , by the Public Treasury , except for its recourse against the insolvent , in conformity with the preceding article .

### **Article 637**

The Receivers may not bring proceedings in simple bankruptcy , nor stand civil party to the case in the name of the capital stock , except after having been authorized by a deliberation taken by the individual majority of the attending creditors .

### **Article 638**

Charges for proceedings moved by a creditor shall be borne , in the event of a conviction , by the Public Treasury ; if there is discharge , by the proceeding creditor .

### **Article 639**

Shall be declared fraudulent bankrupt and submitted to the penalties provided for fraudulent bankruptcy , any insolvent trader who has abstracted books , embezzled or concealed part of his assets or who , either in his writings , or by public acts or by commitments under private signature , or by his balance sheet , shall have acknowledged himself fraudulently debtor of sums that he did not owe .

### **Article 640**

Charges for proceedings in fraudulent bankruptcy may not , in any case , be expensed on the capital stock .

If one or several creditors have stood civil parties in their personal name , the expenses , in case of discharge , shall remain on his charge .

### **Article 641**

Shall be condemned to the penalties of fraudulent bankruptcy

1 - Individuals convicted of having in the interest of the insolvent , abstracted , received or concealed all or part of his movable or immovable chattel , this being without prejudice to other cases of complicity provided by the penal code ;

2 - Individuals convicted of having fraudulently presented in the insolvency and asserted , either in their name or by the intervention of persons , supposed claims ;

3 - Individuals *who* , carrying on trade under the name of another or a supposed name , have rendered themselves guilty of facts of fraudulent bankruptcy .

#### **Article 642**

The spouse , the descendants or ascendants of the insolvent , or his relations by marriage in the same degree , who would have embezzled , diverted or received Bills belonging to the insolvency , without having acted as accomplice to the insolvent , shall be subject to the penalties of theft .

#### **Article 643**

In the cases referred to in the preceding articles the tribunal or the Court shall adjudicate , even though there had been a discharge

1 - Officially upon the return to the capital stock of creditors , of all chattel , rights or actions fraudulently abstracted ;

2 - On the damages which had been claimed and which the ruling or adjudication shall arbitrate .

#### **Article 644**

Any Receiver *who* shall have been guilty of embezzlements in his management shall be punished by way of correction under the penalties for breach of trust .- 128 -

#### **Article 645**

The creditor who shall have stipulated , either with the insolvent , or with any other person , specific advantages against his vote in deliberations over the insolvency , or who shall have concluded a special agreement from which there would derive in his favor an advantage out of the insolvent's assets , shall be punished for misdemeanor by a term of imprisonment of between one month and a year and by a fine which shall not exceed 250 Lebanese Pounds , subject to extenuating circumstances

Imprisonment may be increased to two years , if the creditor is the Receiver of the insolvency .

#### **Article 646**

Additionally , covenants shall be declared void towards all persons and even in respect of the insolvent .

The creditor shall be required to return to whomsoever is legally qualified for the purpose the sums or values he shall have received by virtue of the cancelled agreements .

#### **Article 647**

All decisions and rulings from conviction pronounced by virtue of the provisions of the present title shall be posted and published , in accordance with the forms established for the publicity of adjudication of insolvency .

### **Article 648**

Proceedings taken for simple or fraudulent bankruptcy entail no modification to the ordinary rules governing the administration of the insolvency .

### **Article 649**

In this case , however , the Receivers shall be bound to remit to the public prosecutor the documents , titles , papers and information that shall be required of them .

### **Article 650**

The documents , titles and papers delivered by the Receivers shall be held , throughout the course of investigation , for the communication via the Clerk's office . Such communication shall occur upon the request of the Receivers who may take therefrom private abstracts or require authentic ones which shall be dispatched by the Clerk .

The documents , titles and papers , the legal deposit of which has not been ordained , shall be , following the award or the ruling , remitted to the Receivers who shall give discharge therefore .

## **TITLE V - REHABILITATION**

### **Article 651**

When ten years have elapsed since the adjudication of insolvency , the insolvent non - bankrupt is rehabilitated as a matter of right , without formalities being completed . Such rehabilitation shall in no way impair the functions of the Receivers , if their term of office has not ended , nor the creditors' rights , in case the debtors have not wholly paid up .

### **Article 652**

Is rehabilitated , as a matter of right , the insolvent who has paid up the sums owed by him as capital , interests and charges , interests being unclaimable beyond five years . In order to be rehabilitated as a matter of right , the partner in a company of persons fallen into insolvency is to justify that he has settled , within the same condition , his contribution to the debts of the company , even though he may have been granted a private scheme of arrangement . In the event of disappearance , absence or refusal to receive from one or several creditors , the sum due is deposited in the bank approved for the recaption of State deposits , justification of such deposit being tantamount to clearance .

### **Article 653**

To obtain rehabilitation , in the event of acknowledged probity

1 - The insolvent who , having obtained a scheme of arrangement , shall have paid up in full the promised dividends . This provision is applicable to the partner in a company of persons lapsed into insolvency who has obtained from creditors a private scheme of arrangement .

2 - He who justifies the total remittance of his debts by his creditors or their unanimous consent to his rehabilitation .

## **Article 654**

Every petition for rehabilitation shall be addressed to the prosecutor of the Republic at the Court which has adjudicated insolvency , with the receipts and documents justifying it . This magistrate shall communicate all the documents to the Court President who has awarded the insolvency and to the Prosecutor of the Republic of the petitioner's domicile , charging them to collect all the evidence they can secure on the truth of the facts put forward . The production of receipts and other documents for the purpose of rehabilitation shall not , by itself , render registration compulsory .

## **Article 655**

Notification of the petition shall be served by registered letter by the Court Clerk to every creditor to the insolvency , duly verified or acknowledged by subsequent judicial award , who has not been fully paid up .

## **Article 656**

Any creditor who has not received his dividend in full under the scheme of arrangement or who has not wholly remitted his debts to the debtor may , within a month of the serving of this notification , move opposition to the rehabilitation , by simple deed in the Clerk's office , supported by documentary evidence . The opposing creditor may , by petition filed with the Court and notified to the debtor , intervene in the rehabilitation procedure .

## **Article 657**

After expiry of the time - limit , the result of the inquiries prescribed above and the oppositions moved by the creditors shall be communicated to the prosecutor of the Republic to whom the petition has been referred , and transmitted by him , with his motivated opinion , to the Court President .

## **Article 658**

The Court shall convene , if need be , the petitioner and his opponents and shall cross - hear them in Council chamber . The petitioner may have himself assisted by a counsel .

In case of total payment of the debts , the Court shall restrict itself to the bona fide of the justifications produced and , if they conform to the law , it shall award rehabilitation .

In the event of optional rehabilitation , the Court shall appreciate the circumstances of the cause .

The award shall be rendered in public session .

It may be appealed against , as much by the petitioner as by the prosecutor of the Republic , and by the creditors , within a month from the notification which shall have been served to them by registered letter .

The contesting creditors shall equally be advised of the award . They may exercise their right of opposition before the Court of Appeal .

The Court shall adjudicate , following examination and according to the forms prescribed above .

### **Article 659**

If the petition is dismissed , it may not be taken up again except after the lapse of one year .

If it is received , the ruling or award shall be transcribed on the Court's register in the place of the insolvency and that of the petitioner's domicile .

It shall further be addressed to the prosecutor of the Republic who shall have received the petition and , through the latter's good offices , to the prosecutor of the Republic in the petitioner's birthplace , who shall enter it on the judiciary record in front of the adjudication of insolvency .

The said decision shall equally be entered on the trade register .

### **Article 660**

Shall not be admitted to trade rehabilitation , fraudulent bankrupts , persons convicted of theft , swindling or breach of trust , unless they have obtained penal rehabilitation .

### **Article 661**

The insolvent may not be rehabilitated , after his death .

## **TITLE VI - SPECIAL PROVISIONS FOR COMPANY INSOLVENCIES**

### **Article 662**

Resides the rules already indicated in the course of the preceding titles , companies are submitted to the following provisions .

### **Article 663**

All trading companies , with the exception of participating companies , are likely to obtain a scheme of arrangement or be adjudicated insolvent .

A company , even in a state of liquidation , may be declared insolvent . This is possible , even if the company has been judicially annulled , whenever a de facto company still remains .

### **Article 664**

Petition for a scheme of arrangement , as well as the declaration for the purpose of having insolvency adjudicated , must be signed by the partner or partners who are authorized to sign for the company , if the case concerns a limited joint stock company or a limited partnership , by the manager or director who discharges such duties , following a resolution by the board of directors when a joint - stock company is concerned .

When the company has gone into liquidation , it is incumbent upon the Receiver to make the declaration .

The petition or declaration must be lodged with the Clerk of the Court in whose territorial jurisdiction the company operates its head office .

### **Article 665**

All the partners in a private company , and the financed in sleeping partnership companies , must equally , in so far as they are concerned , make the declaration required by the present code within the twenty days of the company's suspension of payments .

The Court shall , in a single ruling , adjudicate the company's insolvency and that of the jointly - liable partners , and shall appoint in principle a single commissioner - judge and one and same Receiver , although these different insolvencies remain distinct and that the capital stock of each of them is differently constituted .

### **Article 666**

In all companies , the Receiver may compel the partners to complete the payment of their contributions , even before the date set by the Articles .

### **Article 667**

In the event of a company's bankruptcy , may be sued , if need be , as penalty liable , both the jointly - liable partners and the financed , as well as the manager of joint - stock companies or the director discharging these duties .

General and Transitional Provisions

### **Article 668**

Dating from the day when the provisions of the present code become executory , all the previous legislative provisions shall be divested of power in those matters which are the object of the present code .