

## LAW

### REPUBLIC OF TAJIKISTAN

#### “On Insolvency (bankruptcy)”

### CHAPTER I. GENERAL PROVISIONS

#### *Article 1. Relations regulated by the present Law*

Pursuant to the Civil Code of the Republic of Tajikistan the present Law establishes the bases and procedure of adjudging an individual businessman bankrupt, or declaration the latter bankrupt, grounds for the court to declare a legal entity bankrupt, or declaration a legal entity bankrupt, and also the procedure of liquidation of such a legal entity or taking jointly with creditors a decision to declare its insolvency and voluntary liquidation.

#### *Article 2. Sphere of application of the present Law*

The present Law is applied in regard to legal entities (except for the state enterprises stipulated in Article 127 of the Civil Code of the Republic of Tajikistan), including foreign legal entities, in the procedure established by the law and also individual entrepreneurs.

If international agreements recognized by the Republic of Tajikistan establish other rules distinguished from those stipulated in the present Law, the rules stipulated by the international agreements recognized by the Republic of Tajikistan shall be applied.

To the relations of participation of foreign persons as creditors regulated by the present Law, the provisions of the present Law shall be applied unless otherwise stipulated by the international agreements recognized by the Republic of Tajikistan

#### *Article 3. Legislation of the Republic of Tajikistan on bankruptcy*

The legislation of the Republic of Tajikistan on bankruptcy is based on the Constitution of the Republic of Tajikistan, consists of the present Law, other regulatory-legal acts recognized by the Republic Tajikistan.

***Article 4. Basic concepts used in the present Law***

The following basic terms and definitions are used in the present Law:

Insolvency (bankruptcy) – the inability of a debtor, adjudged by court or declared by a debtor, to satisfy in full the claims of bond creditors and/or to fulfill obligations on compulsory payments (hereinafter referred to as - bankruptcy)

Debtor – an individual entrepreneur, or a legal entity, unfit to satisfy the claims of bond creditors and/or to fulfill obligations on compulsory payments within the term prescribed by the present Law;

Bond - obligations of a debtor on payment to the creditor a specific sum of money under the civil-law agreement and other bases stipulated by the Civil Code of the Republic of Tajikistan;

Compulsory payments – taxes, levies and other compulsory fees to the appropriate budget entered in the procedure and on conditions determined by the legislation of the Republic of Tajikistan;

Debtor's manager – a sole executive body of a legal entity and also other persons realizing activity according to the legislation on behalf of the legal entity without the letter of attorney;

Bankruptcy creditors – bond creditors, except for the citizens, a debtor is answerable to for injury of their lives and health, and also the founders (participants) of the debtor-legal entity on obligations arising from such participation.

Prejudicial reorganization – measures on a debtor's solvency taken by the owner of the property of a debtor-legal entity, founders (participants) of the debtor-legal entity, and other persons with a view of prevention bankruptcy;

Supervision – bankruptcy procedure applied to a debtor from the moment the court receives the application on adjudging of the debtor's bankruptcy up to the moment specified in the present Law to save the debtor's property and perform financial analysis of the debtor;

External management (judicial reorganization) – bankruptcy procedure applied to a debtor to restore its solvency with transfer of powers on management of the debtor's property to the trustee;

Bankruptcy proceedings – bankruptcy procedure applied to the debtor, adjudged bankrupt, to proportionally satisfy creditors' claims;

Manager (temporary administrator, trustee, receiver) – a person appointed by court to carry out bankruptcy procedures and realize other powers prescribed by the present Law;

Moratorium – delay of a debtor’ activity on execution of money liabilities and compulsory payments;

A representative of the debtor’s employees – a person authorized by the debtor’s employees to represent their interests in bankruptcy proceedings.

***Article 5. Attributes of bankruptcy***

Legal entities, individual businessmen, and also foreign legal entities shall be considered unfit to answer money liabilities of creditors and also to provide compulsory payments in the budget at the expense of the assets belonging to them if the appropriate obligations are not executed by them within three months from the moment they come into effect and if the total amount of obligations exceeds the cost of the assets belonging to them.

***Article 6. Composition and amount of money liabilities and compulsory payments***

The composition and amount of money liabilities and compulsory payments shall be defined as of the moment the application on adjudging a debtor’ bankruptcy is submitted to the court.

The amount of money liabilities, including the amount of debts for the goods transferred, the works performed and the services rendered, amounts of the loan with interests adjusted to be paid by the debtor, except for the obligations the debtor is answerable to the citizens for injury of their lives and health, obligations on disbursement of the author’s fee, and also obligations to the founders (participants) of the debtor-legal entity arising from such participation shall be taken into consideration to define availability of attributes of bankruptcy of a debtor.

The amount of money liabilities after claims of creditors shall be considered determined if it is confirmed by a court decision or the documents testifying that the debtor admits these claims, and also in other cases stipulated by the present Law.

***Article 7. Debtor***

A debtor shall have the right in prediction of bankruptcy to go to court with application on availability of the circumstances, obviously testifying that he is

unable to execute money liabilities and/or obligations on compulsory payments when due hereunder.

The debtor may submit the application to the court if the debtor has the assets sufficient to cover judicial expenses unless otherwise stipulated by the present Law.

***Article 8. Duty on submission of the debtor's application to the court***

The manager of the debtor or an individual businessman shall be obliged to go to court with application of the debtor in the following cases:

- if satisfaction of claims of one creditor or several creditors caused impossibility for the debtor to execute money liabilities in full to other creditors;
- if the body of the debtor authorized in accordance with the founding documents of the debtor to liquidate it, takes a decision on the debtor's application to go to court;
- if the body authorized by the owner of the property of the debtor – a state unitary enterprise takes a decision on the debtor's application to go to court;
- in other cases stipulated by the present Law.

In the cases stipulated by the first part of the present Article, the debtor's application shall be submitted to the court irrespective of availability of the cases established by the second part of Article 7 of the present Law.

If at liquidation of a legal entity there is impossibility to execute the creditors' claims in full, the debtor's manager, the liquidation commission (liquidator) shall be obliged to go to court on the debtor's application.

In the cases stipulated by the present Article, the debtor's application should be submitted to court not later than one month prior to the appropriate necessity is arisen.

***Article 9. Responsibility of the debtor's manager for non-execution of a duty at submission of the debtor's application to the court***

Non-submission of the debtor's application to the court in the cases stipulated by Article 8 of the present Law shall entail subsidiary responsibility of the debtor's manager, members of the liquidation commission (liquidator) for the obligations of the debtor to the creditors arisen after expiration stipulated by the present Law.

### **Article 10. Fictitious (arranged) and deliberate bankruptcy**

If application of the debtor to declare him bankrupt is submitted to the court when there is a possibility of full satisfaction of the creditors' claims, the debtor who has submitted the given application shall be answerable to the creditors for the harm caused to them by submission of the application.

In case of a debtor's bankruptcy due to the fault of the founders (participants), or other officials, including due to the fault of the debtor's manager who has the right to give the debtor instructions obligatory for execution or has all possibilities to define his actions (deliberate bankruptcy), founders (participants)-legal entities, or other officials shall bear subsidiary liability.

### **Article 11. Bond creditors**

Bond creditors (hereinafter referred to as - creditors) are domestic and foreign natural persons and legal entities, and also state and administrative-territorial units.

The persons recognized according to the present Law as bankruptcy creditors shall have the right to submit creditor's application on adjudging the debtor bankrupt (hereinafter referred to as – application of the creditor).

The creditors on obligations arisen owing to injury and at payment of aliments shall be considered those creditors whose claims are confirmed by the court decision or recognized by the debtor.

The standards established for creditors shall be applied to tax and other authorized bodies unless otherwise stipulated by the present Law.

At conducting bankruptcy proceedings the creditors' meeting and creditors' committee formed pursuant to the present Law shall represent interests of all creditors. From the moment the court initiates proceedings on application on adjudging the debtor bankrupt, the creditors shall not have the right to address to the debtor with a view of satisfaction of their claims in the individual procedure.

All actions concerning the debtor on behalf of creditors shall be realized through creditors' meeting and creditors' committee.

### ***Article 12. Creditors' meeting and the procedure of its convocation***

The participants of the creditors' meeting with the right to vote may be bankruptcy creditors, and in the cases provided by the present Law as far as claims on compulsory payments are concerned – tax bodies and other authorized

bodies. A representative of workers of the debtor shall participate in the creditors' meeting.

Manager shall organize and conduct creditors' meeting.

The powers of the creditors' meeting are as follows:

- taking decision on introduction and prolongation of external management and on moving to court;
- taking decision on amicable agreement;
- taking decision on motion in court to declare the debtor bankrupt and on opening bankruptcy proceeding;
- taking decision on election of members of the creditors' committee, determination of the creditors' committee quantitative membership and on early termination of the creditors' committee powers;
- taking decision on other issues stipulated by the present Law.

A bankruptcy creditor, and in the cases provided by the present Law as far as compulsory payments are concerned, tax bodies and other authorized bodies shall have votes proportional to the amount of claims of a bankruptcy creditor, tax body or other authorized body to the debtor on money liabilities and/or compulsory payments being recognized in accordance with the present Law and established on the date of conducting creditors' meeting.

The creditors' meeting shall be convoked by the manager, creditors' committee demand, bankruptcy creditors and/or tax and other authorized bodies whose claims on money liabilities and/or compulsory payments make not less than one third of total claims placed in the register of the creditors' claims, or by one third of the number of bankruptcy creditors.

The manager shall convoke creditors' meeting by creditors' committee or bankruptcy creditors within two weeks from the moment of the creditors' committee or bankruptcy creditors apply with the appropriate demand to the manager.

The creditors' meeting shall be conducted in the location of the debtor unless otherwise established by the creditors' meeting or creditors' committee.

In case of lack of quorum of creditors a follow-up meeting of creditors shall be convoked which is competent, irrespective of number of the creditors present at the meeting provided the creditors are properly notified of the time and place of the meeting.

***Article 13. Procedure of taking decisions by creditors' meeting***

Decisions of creditors' meeting on the questions put to vote shall be taken by majority of votes of bankruptcy creditors present at the creditors' meeting unless otherwise prescribe by the present Law.

The creditors' meeting shall take the following decisions by majority of votes of total bankruptcy creditors:

- on introduction and prolongation of external management, or on motion to declare the debtor's bankruptcy and open bankruptcy proceeding;
- on motion to remove the manager from office.

In case the creditors' meeting, convoked to solve questions prescribed in the second part of the present Article, lacks necessary votes of bankruptcy creditors a follow-up creditors' meeting should be convoked that has powers to take such decisions by majority of votes of the bankruptcy creditors present at the meeting provided the bankruptcy creditors are properly notified of the time and place of the meeting.

#### ***Article 14. Creditors' committee, election of creditors' committee***

The creditors' committee shall represent the bankruptcy creditors' interests and realize control over the trustee's and receiver's activity in the procedure stipulated by the present Law.

If the number of the bankruptcy creditors is less than fifty persons, the functions of the creditors' committee may be assigned to the creditors' meeting by decision of the creditors' meeting.

The creditors' committee in order to implement the functions assigned shall have the right to:

- demand that the trustee should provide information on the debtor's financial situation and the course of external management;
- demand that the receiver should provide information on the course of bankruptcy proceeding;
- appeal to court the actions of the trustee and receiver in cases prescribed by the present law.

The representatives of bankruptcy creditors in the number to be determined by the creditors' meeting may be included in the creditors' committee but not more than eleven persons.

Decisions of the creditors' committee shall be made by majority of votes of total members of the creditors' committee.

The creditors' meeting shall elect members of the creditors' committee for the period of conducting external management and bankruptcy proceedings.

By the creditors' meeting decision the powers of all members of the creditors' committee may be terminated ahead of time.



A bond creditor's claims and/or claims on compulsory payments in the amount of five hundred minimal wages shall give the creditor the right to have the votes equal to the members of the creditors' committee unless otherwise prescribed by the creditors' meeting decision. The creditor shall have the right to give the votes belonging to him for one candidate or to distribute them between several candidate members of the creditors' committee.

The candidates obtained the greatest number of votes shall be considered elected in the membership.

Members of the creditors' committee may elect chairman out of the members of the creditors' committee.

If there are more than five members in the creditors' committee, the chairman of the creditors' committee must be elected.

### ***Article 15. Interested parties***

Interested parties of a debtor shall be declared:

- legal entities that are the debtor's daughter or subsidiary enterprises pursuant to the civil legislation of the Republic of Tajikistan;
- the manager of the debtor, as well as the persons included in the board of directors (supervisory council) of the debtor, the advisory executive body of the debtor, the chief accountant (accountant) of the debtor, including the persons released from their duties within one year before the proceeding on bankruptcy case was initiated.

For the purposes of the present Law by 'interested parties' in relation of a citizen we shall understand his/her spouse, parents, sisters, brothers, sisters-in-law and brothers-in-law.

In the cases stipulated by the present Law, interested parties in relation of the manager and creditors shall be defined in the procedure stipulated by the first and second parts of the present Article.

### ***Article 16. Manager***

A natural person registered as an individual businessman with special knowledge and unconcerned with the debtor and creditors may be appointed manage (temporary manager, trustee, receiver) unless otherwise stipulated by the present Law.

The managers cannot be appointed:

- the persons who used to manage the business of the debtor-legal entity except for the cases when not less than three years passed from the moment the specified person was removed from managing the debtor's business;



- the persons who are restricted to implement activity on business management and/or management of property of other persons (disqualified persons);
- the persons who used to suffer convictions.

### ***Article 17. Rights and duties of the manager***

The manager shall have the right to:

- convoke creditors' meeting and creditors' committee;
- go to court in the cases stipulated by the present Law;
- receive compensation in the amount and procedure stipulated by the present Law;
- contract other persons to implement his powers and pay for their activity from the debtor's funds unless otherwise determined by the present law or by the agreement with the creditors;
- petition the court for termination of his duties ahead of time.

The manager must:

- take measures on protection of the debtor's property;
- perform financial analysis of the debtor;
- analyze the debtor's financial, economic and investment activity, his niche in commodity markets;
- consider the declared claims of the creditors;
- keep the registry of the creditors' claims;
- implement other functions prescribed by the present law.

The manager must turn his rights and duties to the debtor's and creditors' advantage.

### ***Article 18. Responsibility of the manger***

The manager's non-execution or inadequate execution of his duties assigned to him in accordance with the present Law may be the ground for the court to relieve the manger of his duties.

The debtor and his creditors shall have the right to demand that the manager who has violated the legislation of the Republic of Tajikistan should indemnify them for losses caused by his activity (inactivity).

### ***Article 19. Compensation of the manager***

The procedure and rate of the manager's commission shall be determined by the creditors' meeting and/or affirmed by court.

In the cases prescribed by laws and other regulatory-legal acts of the Republic of Tajikistan the manager shall be determined an extra fee paid by results of his activity.

### ***Article 20. Bankruptcy proceedings***

The following bankruptcy proceeding shall be applied when considering the proceedings in bankruptcy of the debtor-legal entity:

- supervision;
- external management;
- proceedings in bankruptcy;
- amicable agreement;
- other bankruptcy procedures stipulated by the present Law.

The following bankruptcy procedures shall be applied when considering the proceedings in bankruptcy of a debtor-businessman:

- proceedings in bankruptcy;
- amicable agreement.

### **Article 21. Announcement of the debtor of his bankruptcy**

Provided the creditors have no objections, the debtor-legal entity may declare its bankruptcy and voluntary liquidation in the procedure stipulated by the present Law.

## **CHAPTER II. BANKRUPTCY PREVENTION**

### **Article 22. Measures on prevention of bankruptcy of organizations**

Founders (participants) of the debtor-legal entity, the owner of the property of the debtor-legal entity, the executive bodies of state power must take timely measures on prevention of bankruptcy of organizations.

In order to prevent organizations of their bankruptcy the founders (participants) of the debtor-legal entity, the owner of the property of the debtor-legal entity shall take measures directed on financial improvement of the debtor before the debtor files application on declaration of his bankruptcy. The measures directed on the debtor's financial improvement may be stipulated by creditors or other persons on the basis of the debtor's agreement.

### **Article 23. Prejudicial sanitation**

Within the measure on prevention of bankruptcy the owner of the property of the debtor-legal entity, founders (participants) of the debtor-legal entity, creditors of the debtor-legal entity and other persons may render the debtor financial assistance in the amount to be sufficient for repayment of money liabilities and compulsory payments and recovering of the debtor's solvency (prejudicial sanitation).

Financial assistance may be accompanied by taking obligations by the debtor or by other persons for the benefit of the persons who have granted the financial assistance.

Conducting of prejudicial sanitation at the expense of the state budget shall be established by the law on state budget for the appropriate year. Conducting of prejudicial sanitation at the expense of local budgets shall be established by local governments pursuant to the legislation of the Republic of Tajikistan.

### **CHAPTER III. TRIAL OF A BANKRUPTCY CASE**

#### ***Article 24. Consideration of a bankruptcy case***

A bankruptcy case of legal entities and individual businessmen shall be considered by court in accordance with the rules stipulated by Economic-Procedure Code of the Republic of Tajikistan taking into account the peculiarities established by the present Law.

The court may initiate bankruptcy proceedings if the claims to the debtors in the aggregate makes not less than 10% of the sum of the assets of the balance of a legal entity and not less than five hundred minimal wages of an individual businessman.

#### **Article 25. Jurisdiction of bankruptcy cases**

Bankruptcy cases of legal entities and individual businessmen shall be considered by economic court (hereinafter referred to as court) in the location of the debtor-legal entity or in the place of residence of the citizen-individual businessman.

#### **Article 26. The right to legal recourse**

A debtor, a creditor, a procurator and, in the cases stipulated by the present Law, other persons shall have the right to submit application on declaration of the debtor's bankruptcy in connection with non-fulfillment of money liabilities.

A debtor, a bankruptcy creditor, a procurator, tax bodies and other authorized bodies shall have the right to submit application on the debtor's bankruptcy in connection with non-fulfillment of money liabilities.

**Article 27. Persons participating in bankruptcy proceedings**

The following persons shall participate in bankruptcy proceedings:

- debtor;
- manager;
- bankruptcy creditors;
- tax bodies and authorized bodies on claims of compulsory payments;
- procurator in case a bankruptcy case is considered by his application.

**Article 28. Grounds for bankruptcy proceedings**

A bankruptcy case shall be initiated on the basis of application on declaration of a debtor's bankruptcy submitted by the persons listed in Article 26 of the present Law.

**Article 29. Consolidation of creditors' claims**

A creditor's application may be based on consolidated debts on various liabilities.

Creditors shall have the right to consolidate their claims to a debtor and appeal to court. Such an application is signed by the creditors who consolidated their claims

**Article 30. Refusal on taking an application on declaration of the debtor's bankruptcy**

The court declines taking application on declaration of the debtor's bankruptcy if only one of the conditions stipulated in Part two of Article 24 of the present Law is violated.

**Article 31. Measures on creditors' claims protection**

The court on application of the person participating in bankruptcy proceedings shall have the right to take measures on protecting creditors' claims in accordance with the Economic Procedure Code of the Republic of Tajikistan.

Besides the measures specified in the Economic Procedure Code of the Republic of Tajikistan the court shall have the right to ban to make transactions without the consent of the manager which are not stipulated in Part two of Article

44 of the present Law, to oblige the debtor to transfer securities, currency values and other property of the debtor to third parties for custody and undertake other measures aimed at safety of the debtor's property.

The measures on ensuring the fulfillment of creditors' claims shall operate until the moment when the court takes decision on adjudging the debtor bankrupt and opening bankruptcy proceedings, and assigning a receiver or until the moment the court approves amicable agreement, or until the moment the court takes the decision on refusal to declare the debtor's bankruptcy.

The court shall have the right to annul measures on ensuring of fulfillment creditors' claims prior to the circumstances specified in Part three of the present Article.

***Article 32. Debtor's testimonial on application on adjudging the debtor bankrupt***

The debtor in a five-day term since the day of receiving the decision on adopting of creditor's application, application of the tax or other authorized body on adjudging the debtor bankrupt or application of the public procurator on adjudging the debtor bankrupt is obliged to send to the court, to the claimant or other persons participating in bankruptcy proceedings, a testimonial to such an application as well as to notify all creditors not specified in this application of taking proceedings on bankruptcy. To the debtor's testimonial, sent to the court, evidence of sending to the claimant and other persons participating in bankruptcy proceedings, copies of testimonial should be attached.

Besides information specified in the Economic Procedure Code of the Republic of Tajikistan, in the debtor's testimonial it is specified:

- debtor's objections against the claimant's claims;
- total amount of the debtor's debt on obligations to creditors, payment for labor to the debtor's employees, compulsory payments;
- information on the debtor's available assets including monetary funds on his bank accounts and their credit organizations, number of the indicated accounts in banks and other credit organizations and post addresses of banks and credit organizations;
- evidence of satisfaction of the claimant's claims in case they are acknowledged by the debtor;

Lack of testimonial of the debtor could not prevent from consideration of the bankruptcy case in court.

In this case the court commissions the manager to ascertain all creditors and to send them notification on initiating a bankruptcy case at the debtor's expense.

***Article 33. The decision on adjudging the debtor bankrupt and on opening bankruptcy proceedings***

The decision of the court on adjudging the debtor bankrupt and opening bankruptcy proceedings is taken in case of ascertaining attributes of the debtor's bankruptcy stipulated in Article 5 of the present Law as well as lack of the grounds for introducing external management.

The decision of the court on adjudging the debtor-legal entity bankrupt and opening bankruptcy proceedings should contain the following information:

- on adjudging the debtor bankrupt;
- on opening of bankruptcy proceedings;
- on assignment of a receiver.

In the decision of the court on adjudging the debtor-individual businessman bankrupt it should be pointed out that the debtor's state registration as an individual businessman is acknowledged invalid.

The decision of the court on adjudging the debtor bankrupt and opening bankruptcy proceedings is subject to immediate execution unless otherwise established by the court.

***Article 34. Publication by the court of the information on adjudging the debtor bankrupt***

The information on adjudging the debtor bankrupt is published by the court which has taken the decision on adjudging the debtor bankrupt and opening bankruptcy proceedings in mass media at the expense of the debtor's property or if the debtor lacks property at the expense of the creditor who applied to the court with the application on adjudging the debtor bankrupt.

The information on cancellation of the decision on adjudging the debtor bankrupt is subject to the same procedure.

***Article 35. The decision on refusal to adjudge the debtor bankrupt***

The decision of the court on refusal to adjudge the debtor bankrupt should be taken in the following cases:

- lack of the attributes of bankruptcy stipulated in Article 5 of the present Law;
- satisfying creditors' claims prior the court takes the decision on bankruptcy case;
- confirmation of fictitious and premeditated bankruptcy;
- in other cases stipulated in the present Law.

If there is a sufficient proof testifying availability of debtor's liquid assets, the court shall have the right to, at the debtor's petition, postpone bankruptcy proceedings after having proposed the debtor to redeem creditors' claims within the term specified by court.

***Article 36. Consequences of the decision of the court to reject adjudging the debtor bankrupt***

The decision of the court of the decision to reject adjudging the debtor bankrupt is the ground to stop the action of circumstances which are the consequences of adjudging the debtor bankrupt and/or introducing supervision.

***Article 37. The ground for ceasing bankruptcy proceedings***

The court shall cease execution of bankruptcy proceedings in case of:  
reinstatement of debtor's solvency in the course of external management;  
concluding amicable agreement.

**Article 38. Distribution of court costs and expenses on disbursement to the manager**

All court costs relating to State duties payments arranged on installment or deferred systems, as well as disbursement to the manager refer to the debtor's assets and are compensated due to this asset priority.

Amicable agreement may stipulate some other procedure of distribution of specified expenses.

In case of taking decision to reject adjudging the debtor bankrupt due to the lack of attributes of debtor's bankruptcy at the moment of initiating bankruptcy case, the expenses stipulated in Part one of the present Article shall refer to the creditors who appealed to the court and should be distributed among them proportionally to their claims.

The procedure of distribution of judicial costs and expenses on disbursement of the manager are specified in the decision of the court determination admitted as a result of consideration of a bankruptcy case.



## **CHAPTER IV. BANKRUPTCY of INDIVIDUAL BUSINESSMEN**

### **Article 39. Grounds for adjudging an individual businessman bankrupt**

The grounds for adjudging an individual businessman bankrupt is his inability to satisfy creditors' claims on money liabilities and/or to execute obligations on compulsory payments

### **Article 40. Claim on adjudging an individual businessman bankrupt**

The claim adjudging an individual businessman bankrupt may be put in by the debtor-individual businessman, creditor on obligations, which have no relation to enterprise activity or by tax and other authorized bodies on compulsory payments as well as by public procurator.

While applying bankruptcy procedures against an individual businessman on the obligations which bear no relation to enterprise activity, his creditors as well as the creditors on obligations of personal character have also the right to lay their claims.

### **Article 41. Consequences caused by adjudging an individual businessman bankrupt**

From the moment the bankruptcy court has taken the decision on adjudging an individual businessman bankrupt and on opening bankruptcy proceedings, his state registration as an individual businessman is invalidated, licenses given to him for being engaged in some entrepreneur activity are invalidated too.

The individual businessman adjudged bankrupt may not be registered as an individual businessman within a year from the moment he was declared bankrupt.

Bankruptcy court sends a copy of the decision on adjudging an individual business man bankrupt and on opening of bankruptcy proceedings to the body which registered the citizen as an individual businessman.

## **CHAPTER V. SUPERVISING**

### **Article 42. Introducing supervision**

Supervision is introduced from the moment the court takes the decision to adjudge an individual businessman bankrupt unless otherwise stipulated by the present Law is entered.

***Article 43. Consequences of the court decision on admitting the claim on adjudging the debtor bankrupt***

From the moment the court takes the decision on admitting the claim on adjudging the debtor bankrupt:

property claims to the debtor may be laid according to the order of laying claims to the debtor established by the present Law;

at the creditor's solicitation judicial proceedings on the cases dealing with recovery of monetary funds or other property from the debtor are suspended. In this case the creditor shall have the right to lay his claims to the debtor in the order established by the present Law;

suspension of fulfillment of executive documents on property recovery, except fulfillment of executive documents given on the basis of the decision of the court on recovery of wage arrears, disbursement of compensations under author's agreements, and also reimbursement of the damages to health and life, moral damage, which have come to force before the moment the court adjudges the debtor bankrupt;

It is banned to allow claims of debtor's participant-legal entity on appropriation of share in asset in the debtor's property in connection with its leaving the organization.

With the view of ensuring operations of the measures stipulated in Part one of the present Article, the decision of the court on admitting the claim on adjudging the debtor bankrupt shall be sent to the banks and other credit organizations with whom the debtor has bank accounts agreements, and also to other courts, taxation and other authorized bodies.

**Article 44. Consequences of introduction of supervision**

Introduction of supervision is not the ground for removing the debtor's manager or other debtor's management bodies who continue accomplishing their duties with restrictions specified in Part two and three of the present Article.

Debtor's management bodies exclusively by the consent of the temporary manager are allowed to accomplish the following transactions:

dealing with granting fixed assets on lease, mortgage with contribution indicated assets to the charter capital of business companies and partnerships or with disposal of such assets otherwise;

dealing with disposal of other debtor's assets, balance sheet value of which makes up more than 10% of the book value of the debtor's assets;

dealing with receiving and granting loans, issuing of warrants, claims concessions debt remittance, as well as with the body of confidential management of the debtor's property.

Debtor's management bodies shall have no right to take decisions:

on reorganization (amalgamation, joining, separation, appointment, transformation) and liquidation of the debtor;

on creation of legal entities or on participation in other legal entities:

on creation of subsidiaries and representations;

on dividends payment;

on placing by the debtor of money liabilities and other issue securities;

on cessation from participants of the debtor-legal entity, obtaining earlier issued shares from shareholders.

The decision on participation in other legal entities associations can be taken by the debtor's management bodies by consent of the temporary manager.

The court shall have the right to remove the debtor's manager in case the debtor's manager does not take measures necessary for providing safety of the debtor's property, put obstacles to the temporary manager attending to his duties or some other violations of the requirements of the legislation of the Republic of Tajikistan. In such cases the fulfillment of the debtor manager's duties is entrusted with the temporary manager.

From the moment of introducing supervision the debtor's property and other restrictions with regard to the debtor's disposal of the assets belonging to him can be sequestered exclusively within bankruptcy process.

#### ***Article 45. Temporary manager***

The court shall appoint temporary manager out of the nominees suggested by creditors and, failing any such proposals, out of the persons registered in court as managers.

The temporary manager shall carry out his activity from the moment he is appointed by court till the external management is introduced and the trustee is appointed, or until the court takes decision on adjudging the debtor bankrupt or to open bankruptcy proceedings and appoint bankruptcy manager, or until the court makes a decision on amicable agreement or until the court makes a decision on refusal in adjudging the debtor bankrupt.

In case of temporary invalidity of the temporary manager, the court shall have the right to appoint the deputy manager as acting manager.

The temporary manager, in case there is a reasonable excuse, shall have the right to go to court for relieving him of his duties.

In case the court satisfies the temporary manager's petition to relieve him of his duties, it shall appoint somebody as a new temporary manager. Until a new temporary manager is appointed, the temporary manager shall have to execute his duties.

***Article 46. Rights and duties of the temporary manager***

The temporary manager shall have the right to:

proffer claims on his behalf to recognize the transactions void and also to apply consequences of invalidity of the insignificant transactions concluded or executed by the debtor with infringement of requirements prescribed by the present Law;

apply to court on making additional arrangements for safety of the debtor's property including interdiction of making, without the consent of the temporary manager, the transactions stipulated in Part two of Article 44 of the present Law, on transfer of securities, currency values and other assets for the third parties to save, and also on cancellation of such arrangements;

go to court with the petition on relieving the debtor's manager of his post;

receive any information and the documents concerning the debtor's activity;

carry out other powers prescribed by the present Law.

Regulatory bodies of the debtor shall have to provide the temporary manager with any information concerning the debtor's activity at his request.

The temporary manager shall have to:

take measures on safety of the debtor's property;

analyze the financial state of the debtor;

define availability of attributes of fictitious bankruptcy and deliberate bankruptcy;

identify the debtor's creditors and define their claims, notify the creditors on instituting of bankruptcy proceedings;

convoke the first creditors' meeting.

Upon termination of supervision the temporary manager shall submit the report on his activity, provide with the data on the debtor's financial state and his proposal on possibility or impossibility to restore the debtor's solvency.

***Article 47. Analysis of the debtor's financial state***

Analysis of the debtor's financial state is carried out with the aim of defining of sustainability of the debtor's property to cover judicial expenses, expenses on disbursement of the manager, and also possibility or impossibility of recovering of the debtor's solvency.

If as a result of the analysis of the debtor's financial state insufficiency of the debtor's property for covering judicial expenses is determined, creditors shall have the right to take a decision on introduction of external management only if the source of judicial expenses covering is determined.

If creditors did not determine the source of covering judicial expenses, the creditors who voted for introduction of external management bear solidary obligation on covering the specified expenses.

***Article 48. Specifying the volume of creditors claims***

For participation in the first meeting of creditors, the creditors shall have the right to lay their claims to the debtor within a month's time from the moment of receiving notification of the temporary manager on admitting the claim on adjudging the debtor bankrupt by the court. The specified claims shall be sent to the court and to the debtor except for cases when in accordance with the present Law the creditors' claims are acknowledged specified. Creditors' claims acknowledged in accordance with the present Law shall be sent to the temporary manager and the documents allowing to determine the specified claims as established are attached.

Objections on creditors' claims, not acknowledged in accordance with the present Law established, can be submitted to the court by the debtor as well as to the temporary manager within a month's time from the moment of receiving the appropriate claims.

Creditor's claims on which the debtor failed to submit objections in time, specified in Part two of the present Article, shall be acknowledged established in the volume specified by the creditor.

The claims on which the debtor submitted objections shall be considered in the procedure established by the present Law.

***Article 49. Convocation of the first meeting of the creditors and issues to be discussed at the first meeting of creditors***

The temporary manager defines the date of the first meeting of creditors and notifies all creditors. The first meeting of creditors should be held not later

than ten days before the court session, the term established in the court determination on adjudging the debtor bankrupt.

The participants of the first creditors' meeting with the right of vote are bankruptcy creditors, and also taxation and other authorized bodies:

whose claims are acknowledged established in accordance with the present Law and sent to the temporary manager;

whose volume of claims is established by the bankruptcy court in connection with the debtor's objections before conducting the first creditors' meeting.

The temporary manager, debtor's manager and representative of the debtor's employees without vote shall take part in the first meeting.

To the powers of the first creditors' meeting refer:

taking decision on introducing external management and appealing to the court with the appropriate petition;

taking decision on appealing to the court on adjudging the debtor bankrupt and on opening bankruptcy proceedings;

determination of quantitative membership the creditors' committee, election of its members;

solution of other issues specified in the present Law.

The minutes of the first creditors' meeting shall be submitted to the temporary manager not later than in a week since the date of the first creditors' meeting.

#### ***Article 50. Decision of the first creditors' meeting on introducing external management***

The decision of the first creditors' meeting on introducing external management should contain the proposed term of external management and a candidature of the trustee, and also information about him.

### **CHAPTER VI. EXTERNAL MANAGEMENT**

#### ***Article 51. Procedure of introducing of external management***

Court shall introduce external management on the basis of the creditors' meeting decision, except for the cases prescribed by the present Law.

Court ruling on introduction of external management shall be subject to immediate execution.

Court ruling on introduction of external management can be disputed.

External management shall be introduced for the period of not more than twelve months and can be prolonged for not more than six months unless otherwise prescribed by the present Law.

Under the petition of the creditors' meeting or the external manager the court can either reduce or prolong the fixed period of the external management within the limits of the terms prescribed by Part 4 of the present Article.

***Article 52. Consequences of introduction of external management***

From the moment the external management is introduced:

the debtor's manager shall be relieved of his post and the external manager shall be charged with the debtor's regulatory bodies and the proprietor of the legal-entity-debtor's property shall be stopped; the powers of the debtor's manager and other regulatory bodies of the debtor shall be transferred to the external manager except from the powers to be transformed to the persons (bodies) in accordance with this Law. The regulatory bodies of the debtor within three days from the moment of the external manager's appointment shall have to provide the external manager with transfer of accounting and other documentation of the legal entity, its seal and stamps, material and other values;

the earlier approved arrangements on security of the creditors' claims shall be removed;

the moratorium on satisfaction of the creditors' claims under money liabilities and compulsory payments, except for the cases stipulated by the present Law, shall be introduced.

Upon termination of external management the forfeit (penalty, penalty fee), and also the amounts of the caused losses that the debtor must pay to creditors under money liabilities and compulsory payments, can be claimed for payment of introduction of external.

***Article 53. Moratorium on satisfaction of creditors' claims***

The moratorium on satisfaction of creditors' claims shall cover money liabilities and compulsory payments, execution terms of which have come before introducing external management.

In the course of moratorium for satisfaction of claims of creditors under money liabilities and compulsory payments stipulated in Part one of the present Article:

recoveries on executive and other documents on which the recoveries are effected in indisputable (non-acceptance) order are not allowed;



execution of executive documents on property recoveries, except for execution of the executive documents given on the basis of judicial decisions on recoveries of arrears of wages, remuneration authorial agreement payments, aliments, and also damages caused to life and health, moral damage which have come into force before the moment of the bankruptcy court admits the claim on adjudging the debtor bankrupt;

forfeit (fines and penalties) and other financial and economic sanctions for failure to execute or improper execution of money liabilities and compulsory payments, as well as interests payable are not charged.

Moratorium for satisfaction of creditors' claims shall also cover creditors' claims by way of damages caused by refusal of the trustee to fulfill the debtor's agreements.

Rules stipulated in Parts two and three of the present Article shall not be applied to money liabilities and compulsory payments, the term of execution of which comes after introduction of external management.

Moratorium on satisfaction of creditors' claims does not cover claims on recovery for arrears of wages, disbursement of author's agreements, aliments, and also damages caused to life and health.

***Article 54. Rights and duties of the trustee***

The trustee shall have the right to:

independently dispose of the debtor's property with the restrictions prescribed by the present Law;

make peaceful compromise on the debtor's behalf;

declare the refusal to implement the contracts of the debtor;

convoke creditors' meeting;

The trustee shall have to:

operate the debtor's property and draw up inventory;

open a special account to implement external management and settlements with creditors;

develop and submit the plan on external management for approval of the creditors' meeting;

keep accounting, financial and statistical account and other reporting;

declare when due hereunder the objections under the creditors' claims to the debtor;

take measures on collecting debts against the debtor;

consider the claims of the creditors;

present the report on results of the external management plan to the creditors' meeting;

present the report on results of the external management;

carry out other powers prescribed by the present Law.

#### **Article 55. Determination of the volume of creditors' claims**

Creditors shall have the right to lay claims on the debtor at any moment in the course of external management. The mentioned claims shall be sent to the trustee to the post address of the debtor. The creditors' claims acknowledged in accordance with the present Law established shall be sent to the trustee and the documents allowing to determine the specified claims are attached.

The trustee shall examine the creditors' claims and taking into account the results of their examination makes a corresponding record in the register of creditors' claims not later than within two weeks after receiving the corresponding claim. The trustee shall inform the appropriate creditor of results of examination within the term not exceeding a month from the moment of receiving the specified claim.

Objections on the results of the creditors' claims examination by the trustee can be brought to court within a month from the moment of their receiving

Creditors' claims, objections on which were not claimed in the term specified in Part three of the present Article shall be considered established in the amount, composition and priority of satisfaction, which were specified by the trustee.

Creditor's claims on which objections were claimed shall be presented to court considering bankruptcy case in the procedure stipulated in the present Law.

#### ***Article 56. Disposal of the debtor's assets***

The debtor's assets owner or debtor's management body shall have not the right to take decisions or otherwise to limit authorities of the trustee on disposal of the debtor's assets.

Large transactions and transactions which are of interest shall be concluded by the trustee only by consent of the creditors' meeting or creditors' committee unless otherwise stipulated by the present Law or the plan of external management.

Large transactions are transactions entailing/involving disposal of fixed assets or other debtor's property, the balance sheet value of which does not exceed 20% of the balance sheet value of debtor's assets at the moment of transaction conclusion.

Transactions of interest shall be considered transactions a party of which is interested persons with regard to the trustee or bankruptcy creditor.

***Article 57. Refusal from execution of the debtor's agreement***

The trustee within three months from the moment of introducing external management shall have the right to refuse to execute the debtor's agreements.

The refusal to execute the debtor's agreements may be claimed only with regard to agreements which were not partially or completely executed under availability of the following circumstances:

if the execution of the debtor's agreement entails losses for the debtor in comparison with the similar agreements concluded under comparable circumstances;

if it is a long-term agreement (concluded for a term of more than one year), or is intended for gaining positive results for the debtor only in long-term prospect;

if there are other circumstances hampering restoration of the debtor's solvency.

The debtor's contra-agent shall have the right to claim reimbursement of real damages caused by the refusal to execute the debtor's agreement.

***Article 58. Powers of the creditors' committee***

The creditors' committee shall have the right to take decisions:

on convocation of creditors' meeting;

on recommendation to general meeting of creditors to relieve the trustee of executing duties;

on approval or refusal in approval debtor's large transactions which present interest;

on submitting to the court candidature of deputy trustee.

***Article 59. Prolongations of the term of external management***

In the case when general meeting of creditors takes a decision on approval of the external management plan in which the term of external management is provided, and it exceeds initially established term, the court shall prolong the term of external management if there are sufficient grounds to suppose that prolongation of the term of external management and realization of the approved external management plan will lead to restoration of the debtor's solvency.

***Article 60. Measures on restoration of the debtor's solvency***

Measures on restoration of debtor's solvency may be:  
**перепрофилирование** of productive activity;  
closing of unprofitable productions;  
redemption of accounts receivable;  
sale of part of the debtor's assets;  
concession of claim rights of the debtor;  
execution of the debtor's obligations by the owner of the debtor's property-legal entity or the third person (third persons);  
Different ways of recovering of the solvency of the debtor.

***Article 61. Sale of a part of the debtor's assets***

After conducting inventory and assessment of the debtor's property the trustee shall have the right to begin sale of the debtor's assets at open auctions unless otherwise stipulated by the external management plan.

Sale shall be conducted in the form of auctions except for the cases stipulated by the present Law.

The debtor's assets relating to restrictedly turnover ones may be sold at closed auction. The persons that in accordance with the law may have the mentioned property in their ownership or other property right can take part in the closed auction.

The trustee may be the organizer of the auctions or on a contractual basis he can entrust any special organization with conducting the auction. Special organization, conducting an auction, cannot be an interested person with regard to the debtor and trustee.

The starting price of the debtor's property at auction shall be determined by the trustee unless otherwise stipulated by the external management plan.

The winner of the auction shall be obliged to pay selling price for the debtor's property at the term specified in the sale and purchase agreement or minutes concluded on results of the competition within not later than one month after conducting auction.

If the debtor's property is not sold at the first auction, it is put up for sale at the repeated auction unless otherwise stipulated by the external management plan.

If the debtor's property is not sold at the repeated auction it may be sold by the trustee on the basis of sale and purchase agreement concluded without conducting an auction.

***Article 62. Concession of the debtor's claim rights***

Concession of the debtor's claim rights may be carried out by the trustee through demands at open auctions by consent of the creditors' committee or general meeting of creditors unless otherwise stipulated by the external management plan.

**Article 63. Execution of the debtor's obligations by the owner of the debtor's property or by a third person (third persons)**

The owner of the debtor's property shall have the right at any time before expiry of the external management to carry out satisfaction of debts of all bankruptcy creditors' claims.

Implementation of the debtor's obligations by a third person (third persons) shall be admitted provided such implementation simultaneously redeems claims of all bankruptcy creditors according to the register of creditors' claims.

***Article 64. The report of the trustee on results of external management and his consideration***

Not later than fifteen days prior to the expiration of the target date of external management, and also given bases for its prescheduled termination, the external manager shall have to submit the report of the trustee to the creditors' meeting.

The report of the trustee should contain:

- balance of the debtor as of the last accounting date;
- account of profits and losses of the debtor;
- information of the debtor's free money resources available to be directed to satisfy the creditors' claims under money liabilities and compulsory payments of the debtor;

- decoding of the debtor's accounts receivable left and the data on non-realized rights of the debtor's claims;

- other data on the opportunity to repay the debtor's accounts payable left.

The register of the creditors' claims should be attached to the report of the trustee.

Simultaneously with the specified report, the trustee shall suggest the creditors' meeting one of the following proposals:

- on termination of the external management in connection with restoration of the debtor's solvency;
- on conclusion of peaceful compromise;
- on prolonging the target date of the external management;
- on termination of the external management and applying the court to declare the debtor bankrupt and on opening bankruptcy proceedings

The report of the trustee shall be considered by the creditors' meeting that is to be convoked not later ten days after the expiration of the target date of the external management or not later than one month after the bases for the prescheduled termination of the external management emerge.

The trustee not later than fifteen days prior to the expiration of the target date of the external management shall have the right to direct the notice of the creditors' meeting conducted to all creditors.

The notice of the creditors' meeting conducted should contain the information of the time, date and place of the creditor's meeting, and also on procedure of the trustee's report approval.

Considering the results of the trustee's report, the creditors' meeting shall have the right to approve one of the following decisions:

- on termination of the external management in connection with restoration of the debtor's solvency and transition to final pays with creditors;
- on request to the court to prolong the target date of the external management;
- on petition to the court to adjudge the debtor bankrupt and open bankruptcy proceedings;
- on conclusion of peaceful; compromise.

In case the creditors' meeting does not approve any decision stipulated by the eighth part of the present Article, or such a decision is not submitted to court within fifteen (15) days from the expiration of the terms established by fifth part of the present Article, the court shall make a decision on adjudging the debtor bankrupt and on opening proceedings in bankruptcy.

***Article 65. Approval of the trustee's report by court***

The trustee's report and minutes considered by the general meeting of creditors shall be sent to the bankruptcy court not later than five days after the date of general meeting of creditors.

To the report of the trustee the following documents should be attached: register of creditors' claims and complaints of the creditors who voted against the resolution passed by the general meeting creditors or did not take part in voting.

The trustee's report and creditors' claims shall be considered at the session of the court.

The trustee and the creditors who made complaints shall be notified about the time and place of the court session.

If the general meeting of creditors made the decision on cessation of the trustee due to reinstatement of the debtor's solvency and turning to settlement with creditors, the trustee's report is subject to the court's approval, except for the cases stipulated by the present Law.

If the court determines validity of creditors' complaints or reveals lack of signs of reinstatement of the debtor's solvency, the court shall reject to approve the trustee's report.

Determination is delivered on approval of trustee's report, or on rejection to approve the mentioned report, or on prolongation of the external management, or on amicable agreement. This determination may be appealed against.

If there is a petition of the general meeting creditors on adjudging the debtor bankrupt and on opening bankruptcy proceedings and if the court rejects to approve the trustee's report, or in case of the failure to present the report within a month's time from the moment of expiry of external management, the court may deliver a judgment on adjudging the debtor bankrupt and on opening bankruptcy proceedings.

#### ***Article 66. Consequences of the approval of the trustee's report***

Approval of the trustee's report is the ground for cessation legal proceedings on bankruptcy case.

If there is a petition adopted by the general meeting of creditors, the court shall have the right to determine the date of final settlement with creditors.

The court delivers a determination on the approval of the trustee's report and the date of final accounts with creditors that cannot exceed six months from the date of delivering the above determination. In this case bankruptcy proceedings should be ceased after final settlements with creditors.

If accounts with creditors are not effected in the established by the court term, the court shall render a judgment on adjudging the debtor bankrupt and on opening bankruptcy proceedings.

#### **Article 67. Settlements with creditors**

In the cases specified in part five of Article 65 of the present Law settlements with creditors shall be effected by the trustee in accordance with the



register on creditors' claims starting from the date of the approval of the trustee's report by the court. Settlements with creditors shall be effected in the order stipulated by Article 78 of the present Law.

From the moment of execution of the debtor's obligations the trustee shall make appropriate record in the register of creditor's claims.

***Article 68. Redemption of creditors' claims***

For the purposes of the present Law the redeemed creditors' claims shall be the claims which are satisfied, on which agreement, on smart-money, or innovation of the obligations, or cessation of obligations in some other way was reached in accordance with shall be considered redeemed.

**Article 69. Procedure for cessation of trustee's competences**

Cessation of external management shall entail cessation of the trustee's competences.

Where external management is completed by conclusion of an amicable settlement or repayment creditors' claims, a trustee shall continue performing his/her duties within the competences of director of debtor till the time of appointing (electing) the new director of the debtor.

Competences of other managerial bodies of the debtor and the owner of the debtor's property, legal entity, shall be restituted.

Where court made a decision on adjudication in bankruptcy proceedings, and another person is appointed as trustee in bankruptcy, the trustee shall continue performing his/her duties till the time of turning over business to the trustee in bankruptcy.

**CHAPTER VII. BANKRUPTCY PROCEEDINGS**

***Article 70. General provisions***

Delivering a judgment of adjudging the debtor bankrupt by the court shall entail opening bankruptcy proceedings.

The term of bankruptcy proceedings should not exceed one year. The court shall have the right to prolong the specified term by six months unless otherwise stipulated by the present Law.

If necessary the court may prolong the term of bankruptcy proceedings over the terms specified in part two of the present Article. Determination of the court on prolongation of bankruptcy proceedings over the terms specified in part two of the present Article may be appealed.

### **Article 71. Consequences of opening bankruptcy proceedings**

From the moment of rendering decision by the court on adjudging the debtor bankrupt and opening bankruptcy proceedings:

the term of execution of all money liabilities of the debtor, and also the deferred compulsory debtor's payments is considered:

accrual of all forfeits (fines, penalties), interests and other financial (economic) sanction on all kinds of debts of the debtor is stopped;

information on financial state of the debtor ceased to be referred to the category of information which is considered commercial secret;

carrying out transactions concerning alienation of debtor's property, or entailing, transfer of the debtor's property to third persons for use is allowed exclusively in the order specified by the present chapter of the Law;

arrests of the debtor's property, other restrictions on disposal of the debtor's are relieved; New arrests on the debtor's property and introduction of other restrictions on the disposal of the debtor's property are not allowed;

all the claims to the debtor may be laid only within the framework of bankruptcy proceedings;

implementation of the debtor's obligations is allowed in the case and order specified in the present chapter of the Law.

From the moment of rendering decision by the court on adjudging the debtor bankrupt and opening bankruptcy proceedings the management bodies of the debtor shall be removed from fulfilling their functions on managing disposal of the debtor's property in case such removal was not made earlier, powers of the owner of the debtor's property-legal entity are also ceased.

### **Article 72. Receiver's powers**

At taking decision on adjudging the debtor bankrupt and opening bankruptcy proceedings the court shall assign receiver in the order stipulated for assignment of the trustee.

At the receiver's solicitation approved by the general meeting of creditors or creditors' committee, the court shall have the right to assign several receivers. The court distributes duties among receivers depending on complicity of the tasks to be fulfilled, character and size of the debtor's property, specifies the limits of responsibility of each of them.

The receiver operates till the moment of bankruptcy proceedings completion.

***Article 73. Publication of information on adjudging the debtor bankrupt and opening of bankruptcy proceedings***

Publication of information on adjudging the debtor bankrupt and opening bankruptcy proceedings is realized by the receiver and mass media due to the debtor.

Published information on data on adjudging the debtor bankrupt and on opening bankruptcy proceedings should contain:

- denomination and other requisites of the debtor adjudged bankrupt;
- name of the court where the bankruptcy case is regarded;
- date of taking the decision taken by the court on adjudging the debtor bankrupt and opening bankruptcy proceedings;
- the term established for creditors laying claims which cannot exceed less than two months from the date of the mentioned publication;
- information about the receiver.

The information on adjudging the debtor bankrupt and opening bankruptcy proceedings should be sent by the receiver not later than five days from the moment of his assignment.

***Article 74. Powers of the receiver***

From the moment of assignment of the receiver all the powers on managing the debtor's business including powers on disposal of the debtor's property shall be passed to the receiver.

In case the decision on adjudging the debtor bankrupt and on opening bankruptcy proceedings is taken on completion of supervision, from the moment of assignment of the receiver the powers of management bodies and debtor's property owner-legal cease. Management bodies of the debtor within three days from the moment of assignment of the receiver shall provide assignation of accounting and other documentation of the debtor, seals and stamps, tangible and other values to the receiver. In case of evading specified duty the debtor's management including the debtor's manager shall bear responsibility in accordance with the legislation of the Republic of Tajikistan.

The receiver from the moment of his assignment shall exercise the following functions:

- takes under his authority the debtor's property, makes inventory and valuation of the debtor's property and takes of measures on its safety;

- analyzes financial state of the debtor;

- lays to the third persons who are in debts to the debtor, claims on their recoveries in the order established by the legislation of the Republic of Tajikistan;

notifies employees of the debtor on the forthcoming dismissal according to the legislation on labor of the Republic of Tajikistan;

declares in the established order objections on the claims laid to the debtor by creditors;

declares refusal from executing debtor's agreements. Refusal to execute the debtor's agreements is declared in the order specified in Article 57 of the present Law;

takes measures aimed at search and restitution of the debtor's property from third persons;

transfers the debtor's documents which are to be kept in safe according to the legislation and other regulatory-legal acts of the Republic of Tajikistan;

takes other measures stipulated by the present Law.

While exercising his powers the receiver shall have the right to make claims on acknowledging transactions struck by the debtor invalid, demanding and obtaining the debtor's property from third persons, cancellation of agreements concluded by the debtor on other actions stipulated in the laws and other legal acts of the Republic of Tajikistan aimed at the return of the debtor's property.

While implementing his powers the receiver shall have the right to lay claims to third persons who according to the legislation of the Republic of Tajikistan bear the subsidiary responsibility on obligations of the debtor in connection with bringing him to bankruptcy.

The volume of claims is specified proceeding from difference between the total amount of creditors' claims and the bankruptcy assets.

The recovered amounts are included in the bankruptcy assets and may be used only to satisfy creditors' claims by way of the sequence established by the present Law.

#### ***Article 75. Valuation debtor's property***

In the course of bankruptcy proceedings the receiver shall carry out inventory and valuation of the debtor's property.

For carrying out this activity the receiver shall have the right to involve appraisers and other experts with payment for their services at the expense of the debtor's property unless otherwise established by the creditors meeting or creditor's committee.

In case the debtor's property subject to sale in the course of bankruptcy proceedings is real estate, the specified property is valued before sale with attraction of independent appraiser unless otherwise established by the creditors' meeting or creditors' committee.

***Article 76. Bankruptcy assets***

The entire debtor's property available at the moment of opening bankruptcy proceedings and revealed in the course of bankruptcy proceedings makes bankruptcy assets.

The property withdrawn from turnover, the property rights connected with the debtor's personality including the rights based on permission on realization of certain kinds of activity, as well as other property in the present Law is excluded from the debtor's property making the bankruptcy assets.

With the purpose of keeping correct registration of the debtor's property making the bankruptcy assets, the receiver shall have the right to involve accountants, auditors and other experts.

***Article 77. Debtor's property which is not included in the bankruptcy assets***

If the property, excluded from the turnover is included in the debtor's available property, the receiver shall notify the owner of the mentioned property about it.

The owner of the property, excluded from the turnover is obliged to take this property from the receiver or entail it to other people within a month's time from the moment of receiving the notification from the receiver.

In case of non-execution by the owner of the property excluded from the turnover, obligations stipulated in part two of the present Article, within a month's time from receiving notification from the receiver, all expenses on maintenance of the property, excluded from the turnover, shall be assigned to the owner of the specified property.

Social housing fund, children's preschool institutions and objects of the municipal property that are of vital importance for the region shall be subject to transfer to an appropriate local government in the order stipulated in parts one, two and three of this Article. Obligations of maintenance and providing functioning of the mentioned objects according to their special-purpose is entrusted with the local governments on expiration of one month after receiving notification from the receiver.

Transfer of the objects specified in part fourth of the present Article, to local governments shall be realized on the basis of actual state without any additional conditions. Financial sources for maintenance of the given objects are the appropriate budgets.

Officials of the local government, not executing the provisions established in parts four and five of the present of Article shall bear responsibility according to the legislation of the Republic of Tajikistan.

***Article 78. Order of priority in satisfaction of creditors' claims***

Creditors' claims shall be satisfied in the following order:

in the first priority, claims of citizens to whom the liquidated legal entity is liable for causing harm to life and health shall be satisfied;

in the second priority, settlements shall be made for the payment of severance allowances and payment for labor with persons working under the employment contract, including under the contract and on disbursement of compensations under author's agreements;

in the third priority, claims of creditors secured by pledge of the debtor's property shall be satisfied,

in the fourth priority, indebtedness for obligatory payments to the budget and off-budget funds shall be covered;

in the fifth priority accounting with other creditors shall be made.

***Article 79. Sale of debtor's property***

After conducting inventory and valuation of the debtor's property the receiver shall begin sale of the mentioned property at open auctions if the creditors' meeting or creditors' committee do not specify other procedure of the debtor's property selling.

The order and terms of the debtor's property sale should be approved by creditors' meeting or creditors' committee.

Debtor's property related to limited turnover may be sold only at closed auctions.

The receiver may be the organizer of auctions or may commission conducting auctions to a specialized organization on the basis of the agreement. The specialized organization which conducts auction should not be an interested person of the debtor or interested person of the receiver.

Debtor's property which was not sold at the first auction shall be put up for repeated auction or sold by the receiver on the basis of sale-purchase agreement concluded without conducting auction.

***Article 80. Concession debtor's claim rights***

The receiver shall have the right to offer for open auction debtor's claim rights if other sale (concession) of debtor's claim rights is not established by the creditors' meeting or creditors' committee.

Sale (concession) of debtor's claim rights at open auctions is exercised with observance of the rules stipulated in Article 62 of the present Law unless otherwise established by other laws or arisen by essence of claims.

**Article 81. Settlements with creditors**

The receiver effects settlements with creditors in accordance with the register of the creditors' claims.

Determination of the volume of creditors' claims shall be carried out in the order stipulated in Article 55 of the present Law.

The claims of each priority shall be satisfied after the full compensation of the claims of the previous priority.

At insufficiency of the debtor's monetary funds they shall be distributed among the creditors of the appropriate priority in proportion to amount of the claims subject to satisfaction unless otherwise stipulated by the present Law.

Creditors' claims claimed after the claims register closure, including creditors' claims on payments on compulsory payments, arisen after opening bankruptcy proceedings, are satisfied from the debtor's property remained after satisfaction of creditors' claims, claimed when due hereunder.

Creditors' claims, claimed after closure of the register of creditors' claims including claims on compulsory payments arisen after opening bankruptcy proceedings shall be satisfied from the debtor's property, remained after satisfaction of creditors claims presented in the established order. Claims of the creditors of the first and second priorities claimed before completing settlements with all creditors including after closure of the register of the creditors' claims shall be subject to satisfaction. Until complete satisfaction of the mentioned claims, satisfaction of claims of the creditors of the appropriate priority shall be suspended. Just in the same order claims of creditors of other priorities, presented when due hereunder, but not acknowledged by the receiver with regard to which there is a decision of the court on their satisfaction which has come into force.

Creditors' claims which were not satisfied owing to insufficiency of the debtor's property shall be considered redeemed. The claims of the creditors not



acknowledged by the receiver if the creditor did not make a claim to the court as well as claims in satisfaction of which it was rejected by the decision of the court, shall be considered redeemed.

The receiver shall put in the register of creditors claims information on redeeming creditors' claims.

The creditors whose claims were not satisfied in full in the course of bankruptcy proceedings shall have the right of claim to the third persons who have illegally received the debtor's property. The mentioned claim may be laid after closure of judicial proceedings on bankruptcy case in the order stipulated by the legislation of the Republic of Tajikistan.

### **Article 82. Control over the receiver's activity**

The receiver not less than once a month shall submit to the creditors' meeting or creditors' committee a report on his activity, the information about financial state of the debtor and his property at the moment of opening bankruptcy proceedings and in the course of bankruptcy proceedings as well as other information.

The receiver is obliged by request of the court to submit to the court all the information concerning bankruptcy proceedings.

### ***Article 83. Removal of the receiver***

In case of non-execution or inadequate execution by the receiver of the duties entrusted with him, the court at the petition of the creditors' meeting or creditors' committee, removes the receiver from fulfilling of his duties and assigns a new receiver.

### ***Article 84. Report of the receiver***

After completing settlements with creditors the receiver is obliged to submit to the court a report on the results of conducting bankruptcy proceedings.

The following should be attached to the receiver's report:

- documents confirming sale of the debtor's property;
- register of creditor's claims with indication of the volume of redeemed creditors' claims;
- documents confirming redeeming of creditors' claims.

***Article 85. The debtor's property remained after redeeming creditors' claims***

The receiver shall notify the appropriate authorized body about the debtor's property which was offered for sale but was not sold in the course of bankruptcy proceedings due to the lack of claims of the debtor's property owner-legal entity on the rights on the mentioned property.

Not later than a month from the moment of receiving the appropriate notification, the authorized bodies shall take the property specified in part one of the present Article on the balance and bear all expenses on maintenance of this property.

***Article 86. Completion of bankruptcy proceedings***

After consideration of the receiver's report on the results of conducting bankruptcy proceedings, the court shall deliver determination on completion of bankruptcy proceedings.

The receiver within ten days from delivering the court's determination on completion of conducting bankruptcy proceedings should submit the mentioned determination to the body exercising state registration of legal entities.

The determination of the court on completion of bankruptcy proceedings is the ground for making entry in state register of legal entities on the debtor's liquidation.

From the moment of the entry on debtor's liquidation in the state register of legal entities the receiver's powers end bankruptcy proceedings are closed and the debtor is liquidated.

**CHAPTER VIII. AMICABLE AGREEMENT**

**Article 87. General provisions**

The debtors and creditors shall have the right to conclude amicable agreement at any stage of bankruptcy judicial proceeding in the court.

The decision on concluding amicable is taken by the creditors' meeting on behalf of the creditors. The decision of the creditors' meeting on concluding an amicable agreement is taken by the majority votes out of the total amount of bankruptcy creditors and is considered adopted if all bond creditors provided with debtor's asset mortgage voted for it.

The decision on concluding an amicable agreement on the part of the debtor is taken by the debtor's manager, trustee or receiver.

Participation in the amicable agreement of third parties, undertaking obligations and rights, stipulated by an amicable agreement.

The amicable agreement is to be approved by the court which is earmarked in the determination of the court on suspension bankruptcy proceedings. If an amicable agreement is concluded in the course of bankruptcy proceedings, the court shall take determination on approval of the amicable agreement.

The amicable agreement comes into effect for the debtor and bankruptcy creditors as well as for the third parties participating in the amicable agreement from the date of its approval by the court and is obligatory for the debtor, bankruptcy creditors and third parties participating in the amicable agreement.

Unilateral denunciation of execution of the amicable agreement which has come into force is not allowed.

#### **Article 88. Form of the amicable agreement**

The amicable agreement is concluded in writing.

On the part of the debtor it is signed by the debtor's manager, trustee or receiver.

On behalf of the creditors the amicable agreement is signed by a person authorized by the creditors' meeting.

If there are third parties to the amicable agreement, then the amicable agreement is signed by these persons or their representatives.

#### ***Article 89. Content of the amicable agreement***

The amicable agreement should contain provisions on volumes, order and terms of execution of the debtor's obligations and/or suspension debtor's obligations presenting smart-money, obligations innovation, debt forgiveness, or other ways stipulated in the legislation of the Republic of Tajikistan.

The amicable agreement may contain the following conditions:

- on delay or installment of execution of the debtor's obligations;
- on concession of the debtor's right in claim;
- on execution of obligations of the debtor by third persons;
- on allowance from the debt the;
- on exchange of claims on shares;

on satisfaction of creditors claims by other ways not contradicting laws and other legal acts of the Republic of Tajikistan.

The terms of the amicable agreement for bankruptcy creditors who did not participate in voting on the issue of concluding the amicable as well as those who vote against its conclusion cannot be worse than for bankruptcy creditors of the same category voting for the conclusion of the agreement.

***Article 90. Terms of approval of the amicable agreement by the court***

The debtor, trustee or receiver within five days from the date of conclusion of the amicable agreement should submit an application on approval of the amicable agreement to the court.

The following documents should be attached to the application on the approval of the amicable agreement:

- the text of the amicable agreement;
- the minutes of the creditors' meeting which took decision on conclusion of the amicable agreement;
- the list of all bankruptcy creditors indicating their addresses and amounts of debts;
- written objections of bankruptcy creditors who did not participate in voting on the issue of concluding amicable agreement or vote against.

The court notifies the interested parties of the date of consideration of the application on approval of the amicable agreement. Default does not prevent from consideration bankruptcy case.

***Article 91. Consequences of approval of the amicable agreement***

Approval of the amicable agreement by the court in the course of supervision or external management becomes the ground for suspension of moratorium on satisfaction of creditors' claims.

Approval of the amicable agreement by the court in the course of external management becomes the ground for suspension of moratorium on satisfaction of creditors' claims

In a case moratorium is approved by the court in the course of bankruptcy proceedings, the decision of the court on declaration the debtor bankrupt and opening bankruptcy proceedings is not subject to execution.

As from the moment of approval of the amicable agreement by the court powers of temporary manager, trustee, and receiver terminate.

The trustees, debtor's receiver-legal entity, perform duties of the debtor's manager external till the moment of assignment the debtor's manager.

As from the date of the approval of the amicable agreement accordingly debtor-citizen of debtor's manager, trustee or receiver start to redeem indebtedness to creditors.

***Article 92. Refusal of the court to approve amicable agreement***

The court has the right to reject approval of the amicable agreement in the following cases:

- of violation of the order concluding amicable agreement which is established by the present Law;
- non-observation of the form of the amicable agreement;
- violation of rights of the third parties;
- contradictions of term of the amicable agreement to the laws and other regulatory-legal acts of the Republic of Tajikistan.

The court delivers the determination on rejecting of approval of the amicable agreement which may be appealed against.

***Article 93. Consequences of the rejecting approval of the amicable agreements***

In case of the court delivers determination on rejecting approval of the amicable agreement, the amicable agreement is considered uncompleted.

Delivering determination on rejecting approval of the amicable agreement cannot prevent from a new amicable agreement.

***Article 94. Invalidity of the amicable agreement***

At the debtor's, creditor's or procurator's application the amicable agreement may be considered invalid:

if the amicable agreement contains terms envisaging advantages for certain creditors and infringing on rights and legitimate interests of separate creditors;

if execution of the amicable agreement may result in debtor's bankruptcy;

at availability of other grounds of invalidity of transactions stipulated by the Civil Code of the Republic of Tajikistan

***Article 95. Consequences of adjudging the amicable agreement ineffective***

Adjudging the amicable agreement invalid (null and invalid) becomes a ground for resumption of bankruptcy proceedings. The court delivers determination on resumption of bankruptcy proceedings which may be appealed.

In case of adjudging the amicable agreement invalid creditors claims which were delayed and/or payment by installments of the payments due to them or the discount from debts was effected their unsatisfied part should be restored.

Regarding the part not adjusted by the present Article, consequences of invalidity of transactions are stipulated in the Civil Code of the Republics of Tajikistan.

In case of adjudging the amicable agreement invalid, notification on resumption of bankruptcy proceedings with regard to the debtor, the court publishes the information in mass media at the expense of the debtor.

***Article 96. Cancellation of the amicable agreement***

Cancellation of the amicable agreement approved by the court between separate creditors and the debtor is not allowed.

Cancellation of the amicable agreement on the decision of the court with regard of a separate creditor does not entail cancellation of the amicable agreement with regard to other creditors.

The amicable agreement may be cancelled on the decision of the court in case of non-execution of the terms of the amicable agreement with regard to not less than one third part of the creditors' claims. In this case consequences specified in Article 95 of the present Law are applied.

***Article 97. Consequences of non-execution of the amicable agreement***

In case of adjudging the amicable agreement invalid, creditors shall have the right to lay claims in the volume stipulated in the amicable agreement.

In case of initiating bankruptcy case, the volume of creditors' claims with regard to which the amicable agreement is concluded shall be defined by the conditions stipulated in the amicable agreement.

***Article 98. Responsibility for violation of this law***

Physical persons and legal entities which/who violate the provisions of the preset law shall bear responsibility for infringement of the present Law according to the legislation of Republic of Tajikistan.

***Article 99. On adjudging the Law of the Republic of Tajikistan "On bankruptcy of enterprise" invalid***

Adjudge the Law of the Republic of Tajikistan "On bankruptcy of enterprises" as of March 10, 1992 (Vedomisty of Supreme Soviet of the Republic of Tajikistan, 1992, No.8, Article 116; Akhbory Madjlisi Oli of the Republic of Tajikistan, 1996, No.3, Article 48; 1997, No.9, Article 117; 1998, No.10, Article 121) invalid.

***Article 100. Order of introduction of the present law into operation***

The present Law shall be put into operation after its official publication.  
President  
Republic of Tajikistan Dushanbe, December 8, 2003, No.46

Decree of Madjlisi Oli and Madjlisi Namoyandagon of the Republic of Tajikistan

On approval of the Law of the Republic of Tajikistan  
“On Insolvency (bankruptcy)”

Madjlisi Namoyandagon Madjlisi Oli of the Republic of Tajikistan hereby resolves:

1. To approve the Law of the Republic of Tajikistan “On insolvency (bankruptcy)” in the second reading.
2. That the government of the Republic of Tajikistan should submit to the Madjlisi namoyandagon Madjlisi Oli of the Republic of Tajikistan proposals on bringing the current legislation in conformity with the present law and to bring the decisions into accord with the given Law.

Chairman  
Madjlisi namoyandagon Madjlisi Oli  
Republic of Tajikistan  
Dushanbe, June 25, 2003, No.883

S.Hairulloev

***Decree***

Madjlisi Milli Madjlisi Oli of the Republic of Tajikistan

***On Law of the Republic of Tajikistan “On Insolvency (bankruptcy)”***

Having considered the Law of the Republic of Tajikistan “On Insolvency (bankruptcy)”, Madjlisi milli Madjlisi Oli of the Republic of Tajikistan hereby resolves:  
To approve the Law of Republic of Tajikistan “On Insolvency (bankruptcy)”.

Chairman  
Madjlisi mill Madjlisi Oli  
Republic of Tajikistan

M.Ubajdullov

Dushanbe, November 21, 2003, No. 431