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Natural Person Insolvency Act[1]

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Chapter 1
General Provisions

§ 1. Scope of regulation of Act

(1) This Act provides for the submission and hearing of insolvency petitions regarding natural persons and the conduct of debt restructuring proceedings and proceeding for the release from obligations.

(2) Declaration of bankruptcy of a debtor who is a natural person and the conduct of bankruptcy proceedings are regulated by the Bankruptcy Act.

§ 2. Purpose of Act

(1) The purpose of this Act is to enable debt restructuring or release from obligations for a natural person who is in payment difficulties (hereinafter the *debtor*) through an insolvency petition, ensuring also the protection of creditors.

(2) On the basis of an insolvency petition, a debtor is declared bankrupt or a debtor is declared bankrupt and proceedings for the release from obligations are initiated or debt restructuring proceedings are initiated.

(3) The purpose of debt restructuring is to overcome payment difficulties of the debtor and to avoid bankruptcy proceedings. The legitimate of interests of both the debtor and creditors of the debtor are taken into account in the process.

(4) The purpose of the proceedings for the release from obligations is to release a debtor who is a natural person from the obligations that have not been performed in the bankruptcy proceedings.

§ 3. Scope of application of Act

(1) This Act applies to a debtor who is a natural person, regardless of whether he or she is a sole proprietor.

(2) Debt restructuring can be sought in respect of a debtor provided that the residence of the debtor or the registered office of the undertaking of the debtor is in Estonia and has been there for at least within one year before the submission of the insolvency petition.

§ 4. Application of Code of Civil Procedure and specifications concerning publication and sending of notices and serving of procedural documents

(1) The provisions of the Code of Civil Procedure concerning the action-by-petition procedure apply to the submission and hearing of insolvency petitions, debt restructuring proceedings and proceedings for the release from obligations, unless otherwise provided by this Act.

(2) A court must, as of the submission of an insolvency petition until the hearing of the petition, and in debt restructuring proceedings and proceedings for the release from obligations, take measures at the court's own initiative to ascertain the facts relevant to the proceedings and organise collection of the evidence necessary for ascertaining the facts, unless otherwise provided by law.

(3) If this Act prescribes publication of a notice, the notice must be published in the official publication *Ametlikud Teadaanded*.

(4) A published notice may include an extract from the operative part of a procedural document.

(5) A court may publish a notice several times. The date of publication of the first notice is indicated in the repeated notice.

(6) Where a notice or procedural document is to be served by means of public service, the document is deemed to be served within five days as of its publication in the official publication *Ametlikud Teadaanded*.

(7) A court may assign the trusted practitioner with the duty of sending notices or serving procedural documents.

(8) A court may deem a procedural document to have been served when five days have passed from its posting at the address of the recipient even if the parcel is returned. The court may set a longer term for deeming a document to be served.

§ 5. Competence and jurisdiction of courts

(1) The hearing of insolvency matters of natural persons is within the competence of district courts.

(2) An insolvency petition is submitted to the district court of the residence of the debtor or the registered office of an enterprise of the sole proprietor. It is presumed that the residence indicated in the population register one year before the submission of an insolvency petition is the residence of a natural person and the registered office indicated in the register one year before the submission of an insolvency petition is the registered office of an enterprise of the sole proprietor, unless it is proved that the residence or registered office of the debtor is elsewhere.

(3) Where several insolvency petitions are submitted with regard to one debtor, the petitions are joined for one procedure and heard by the court with whom the first insolvency petition is submitted.

(4) A joint insolvency petition of spouses is submitted to the district court of the joint residence of the spouses. Where spouses do not have a joint residence, the petition is submitted to the district court of the residence, or the registered office of an enterprise, of one of the spouses as chosen by the spouses.

§ 6. Competence of judicial clerks

(1) A judicial clerk may perform the duties of a court instead of a judge.

(2) A judge decides on the division of tasks between himself or herself and a judicial clerk, and may give instructions to the judicial clerk.

(3) Only a judge may decide on the resolving of an insolvency petition, appointment of a trusted practitioner, approval, amendment or annulment of a restructuring plan, determination of remuneration and reimbursement of expenses of a trusted practitioner, initiation of the proceedings for the release of a debtor who is a natural person from obligations, termination of the proceedings for the release from obligations and the release from obligations.

(4) The provisions of subsections 1–3 of § 125^1 of the Courts Act and subsection 2^1 of § 22^1 of the Code of Civil Procedure correspondingly apply to the competence of judicial clerks and removal of judicial clerks.

§ 7. Entry into force of orders and filing of appeals against orders

(1) An order by which an insolvency petition is granted or a restructuring plan is approved or amended is effective and subject to enforcement as of making the order public. An order by which an insolvency petition is denied or dismissed or proceedings are terminated or by which the approval of a restructuring plan is refused or a restructuring plan is annulled is effective and subject to enforcement as of entry into force of the order.

(2) An appeal may be filed against a court order specified in this Act in the cases prescribed by this Act. Appeals may be filed against an order of a circuit court of appeal concerning an appeal against an order only if this is prescribed by this Act.

(3) An order of a circuit court of appeal concerning an appeal against an order is effective and subject to enforcement as of its entry into force in accordance with the provisions of subsection 3 of § 466 of the Code of Civil Procedure, unless the circuit court of appeal decides that its order is subject to immediate enforcement.

(4) Proceedings on an insolvency petition, debt restructuring proceedings and proceedings for the release from obligations may not be suspended.

§ 8. Case costs

(1) Where bankruptcy of a debtor is declared on the basis of an insolvency petition, the costs relating to the filing and hearing of the insolvency petition are covered in accordance with the provisions of the Bankruptcy Act as the costs relating to the filing and hearing of a bankruptcy petition.

(2) Where debt restructuring proceedings of a debtor are initiated on the basis of an insolvency petition, the costs relating to the filing and hearing of the insolvency petition are covered by the debtor or the creditor who has submitted the insolvency petition.

(3) A debtor covers the costs of debt restructuring proceedings and proceedings for the release from obligations. Creditors must pay for their own costs in debt restructuring proceedings and proceedings for the release from obligations. Costs relating to the bankruptcy proceedings of a debtor are covered in accordance with the provisions of the Bankruptcy Act.

(4) A court may order payment of the case costs of creditors from a debtor where the debtor knowingly submitted an unjustified insolvency petition or otherwise caused case costs to creditors by knowingly submitting incorrect information, unreasoned requests or objections.

(5) In case of compliance with the debt restructuring plan or release from obligations, a debtor is not required to reimburse the financial aid granted by the state.

(6) An appeal may be filed against a court order on the case costs.

§ 9. Use of forms in proceedings

(1) The forms of the insolvency petition, the insolvency petition of spouses, the insolvency petition of a creditor, the list of assets, the list of debts and the debt restructuring plan are established by a regulation of the minister in charge of the policy sector.

(2) The use of the forms established by the regulation specified in subsection 1 of this section is mandatory.

(3) The forms specified in subsection 1 of this section are freely accessible, free of charge, to everybody on the website of the Ministry of Justice and at the court.

Chapter 2
Insolvency Petition

§ 10. Application of Bankruptcy Act

The provisions of Subchapter 1 of Chapter 2 of the Bankruptcy Act correspondingly apply to the submission of and proceedings on insolvency petitions, unless otherwise provided by this Act.

§ 11. Insolvency petition of debtor

(1) A debtor may, in case of payment difficulties, submit with regard to him or her an insolvency petition for the declaration of bankruptcy or for the declaration of bankruptcy and initiation of proceedings for the release from obligations or for the initiation of debt restructuring proceedings.

(2) An insolvency petition must set out at least the following information:
1) substantiation of the debtor about the need to submit the insolvency petition, including an explanation of the payment difficulties and their causes;
2) position of the debtor whether he or she wishes that bankruptcy be declared in respect of him or her, or bankruptcy be declared and proceedings for the release from obligations be initiated, or debt restructuring proceedings be initiated, or it is left for a court to decide;
3) if a debtor wishes that debt restructuring proceedings or proceedings for the release from obligations be initiated, confirmation of the debtor that he or she is not aware of any circumstances that could preclude the restructuring of debts or the release from obligations and that he or she would perform the obligations provided in § 23 or § 47 of this Act in accordance with the proceedings that are initiated in respect of him or her;
4) information enabling to verify payment of the state fee.

(3) In addition, a debtor who seeks the restructuring of debts and who has an enterprise must substantiate in the petition that the enterprise needs restructuring and that the sustainable management of the enterprise is likely after the restructuring as well as describe the consequences of restructuring to employees of the enterprise.

(4) Spouses may submit a joint insolvency petition. Where a petition is submitted by one spouse, he or she must indicate the details of the other spouse in the petition, provide information on whether the other spouse also has payment difficulties and provide reasons why the petition is not submitted jointly. The same applies where spouses are divorced but joint property has not been divided.

(5) Where spouses submit a joint insolvency petition, the provisions concerning debtors apply to them both, unless otherwise provided by law.

(6) A debtor, when submitting an insolvency petition, is required to use the form of the insolvency petition established on the basis of subsection 1 of § 9 of this Act. Where spouses submit a joint insolvency petition, they are required to use the form of the joint insolvency petition of spouses established on the basis of subsection 1 of § 9 of this Act.

§ 12. Insolvency petition of creditor

(1) A creditor may submit an insolvency petition in respect of a debtor for the declaration of bankruptcy or the initiation of debt restructuring proceedings. The provisions of the Bankruptcy Act concerning bankruptcy petitions of creditors apply to the insolvency petition of a creditor, unless otherwise provided by this Act.

(2) Where a creditor seeks to initiate debt restructuring proceedings of a debtor through an insolvency petition, the creditor may submit an insolvency petition with a written consent of the debtor, in which case the prerequisites provided in subsections 2 and 3 of § 10 of the Bankruptcy Act need not be complied with.

(3) When an insolvency petition of a creditor, by which the creditor seeks the declaration of bankruptcy of a debtor, is served on the debtor, the court asks the debtor whether he or she also seeks the initiation of proceedings for the release from obligations. A debtor must notify the court of his or her wish to initiate proceedings for the release from obligations no later than upon hearing the insolvency petition. Where a debtor fails to notify the court, the debtor is deemed not to seek the initiation of proceedings for the release from obligations.

(4) A creditor, when submitting an insolvency petition, is required to use the form of the insolvency petition of a creditor established on the basis of subsection 1 of § 9 of this Act.

(5) A court may, by an order, require a creditor who has submitted an insolvency petition to pay an amount specified by the court to the prescribed account as a deposit in order to cover the remuneration and expenses of a trusted practitioner if there is reason to presume that the assets and income of the debtor are not sufficient to cover the expenses. The creditor who has submitted an insolvency petition may file an appeal against such order.

(6) Where a court initiates debt restructuring proceedings of a debtor upon hearing an insolvency petition of a creditor, the amount paid into deposit by the creditor is reimbursed to him or her on account of the deposit paid by the debtor or on the basis of the debt restructuring plan in the first order. Where bankruptcy of the debtor is declared on the basis of the insolvency petition, the provisions of the first sentence of subsection 2 of § 11 of the Bankruptcy Act apply.

§ 13. Acceptance of petition

(1) An order on acceptance of a petition is forwarded to the debtor and the creditor who has submitted the insolvency petition. Where a petition is submitted by one spouse, the order on acceptance of the petition is served on the other spouse.

(2) A court may, already before the submission of a petition or the resolving of its acceptance, apply interim protection in order to secure the petition, including to suspend enforcement proceedings or other compulsory enforcement in respect of assets of the debtor, or apply other measures securing bankruptcy petitions.

(3) A person whose rights are restricted by an order made on the basis of subsection 2 of this section may file an appeal against such order.

(4) During the resolving of a petition or the appointment of a trusted practitioner, a court may refer a debtor to seek and use the debt counselling service provided in the Social Welfare Act. Provision of the debt counselling service does not suspend the proceedings on the insolvency petition or the appointment of a trusted practitioner.

§ 14. Refusal to accept petition

(1) The court refuses to accept an insolvency petition where:
1) the grounds provided in this Act or the Code of Civil Procedure exist, including failure to pay the state fee;
2) bankruptcy of the debtor has been declared or the insolvency petition is based on such a claim to which debt restructuring plan applies or on the basis of which a claim cannot be filed against the assets of the debtor under subsection 1 of § 48 of this Act.

(2) Where a joint insolvency petition of spouses has been submitted and the petition cannot be accepted in respect of both spouses, the court may accept the petition in respect of one spouse.

(3) A debtor and the creditor who has submitted the insolvency petition may file appeals against the order by which the court refused to accept the insolvency petition.

§ 15. Appointment of trusted practitioner

(1) Where a court accepts an insolvency petition, the court decides, by an order, the appointment of a trusted practitioner in accordance with the provisions of § 15 of the Bankruptcy Act, unless otherwise provided by this Act. Upon appointment of a trusted practitioner in specific proceedings, including in the event of cross-border

cases, the experience and professional knowledge of the trusted practitioner and the particularities of the case must be taken into account.

(2) On the basis of a joint insolvency petition of spouses, a court may appoint different trusted practitioners to the spouses if this is necessary taking into account their interests.

(3) A person may be appointed as a trusted practitioner if the person is entered in the list of trusted practitioners. The consent of the person is required for his or her appointment as a trusted practitioner.

(4) A trusted practitioner may not be an employee of the court and he or she must be independent of the debtor and creditors. When giving consent to the court to act as a trusted practitioner, the person confirms in writing that he or she is independent of the debtor and creditors.

(5) A person connected with the judge or judicial clerk hearing the matter specified in subsection 1 of § 117 of the Bankruptcy Act may not be appointed as a trusted practitioner.

(6) Before appointing a trusted practitioner, a court also hears the opinion of a debtor about the candidate for a trusted practitioner.

(7) A court appoints a trusted practitioner for the time until the declaration of bankruptcy or for the time of proceedings for the release from obligations or debt restructuring proceedings.

(8) In case of failure to appoint a trusted practitioner, the proceedings on the insolvency petition are not continued and the proceedings terminate.

(9) Where an insolvency petition has been submitted by a debtor and he or she has sought the declaration of bankruptcy or the declaration of bankruptcy and initiation of proceedings for the release from obligations, the court may, considering the financial situation of the debtor, refuse to appoint a trusted practitioner and declare bankruptcy within ten days after receipt of the insolvency petition in accordance with the provisions of § 31 of the Bankruptcy Act or declare bankruptcy and initiate proceedings for the release of the debtor from obligations in accordance with the provisions of § 31 of the Bankruptcy Act and § 45 of this Act.

(10) In the order on appointment of a trusted practitioner, a court sets a term of up to 30 days for the submission of the list of assets and the list of debts of the debtor and their annexes to the court. Where necessary, the court may extend the term by up to ten days.

(11) In addition to the rights and obligations provided in this Act, a trusted practitioner has, from his or her appointment until the resolving of the insolvency petition, also all the rights and obligations of an interim trustee provided in law, taking into account the specifications provided in this Act.

(12) Where a person who does not meet the requirements provided in subsections 3–5 of this section is appointed as a trusted practitioner, a debtor and the creditor who has submitted the insolvency petition may file appeals against the order on the appointment of a trusted practitioner. Where the court annuls the appointment of the person as a trusted practitioner, the court appoints a new trusted practitioner who continues to perform the duties of a trusted practitioner. This does not affect the validity of the acts performed by or with respect of the former trusted practitioner.

§ 16. Consequences of appointment of trusted practitioner

(1) Upon appointment of a trusted practitioner, the calculation of a fine for delay or contractual penalty which increases in time on claims against the debtor is suspended until approval of a restructuring plan or termination of debt restructuring proceedings. This does not apply to the claims which restructuring has not been requested by the debtor or where bankruptcy of the debtor is declared.

(2) Upon appointment of a trusted practitioner, a creditor may not terminate a contract entered into with the debtor relying on the default on financial obligations that has taken place before the submission of the insolvency petition or refuse to perform the obligations thereof on this basis. An agreement according to which a creditor may terminate a contract upon submission of an insolvency petition or approval of a restructuring plan is void. Where continuation of performance of a contract is unjustified in respect of the creditor or unnecessary for the debtor, especially where the initiation of debt restructuring proceedings is unlikely or the continuation of performance of the contract is not necessary in order to conduct debt restructuring proceedings, the court may allow the creditor to terminate the contract on the basis of a petition of the creditor.

(3) Upon appointment of a trusted practitioner, a court suspends enforcement proceedings conducted regarding the assets of the debtor or other compulsory enforcement to collect money until the declaration of bankruptcy, approval of a restructuring plan or termination of the proceedings. A court may, until the same time:
1) suspend the judicial proceedings in which there is a financial claim against the debtor and on which no judgment has been made yet;

2) annul measures for interim protection of a claim, including seizure of payment accounts;
3) prohibit creditors from exercising the rights arising from the securities furnished by the debtor, including from selling, or requesting the sale, of a pledged object;
4) apply other measures of interim protection of a right, including measures securing bankruptcy petitions.

(4) A court does not suspend judicial proceedings concerning deciding on imposition of a pecuniary punishment or confiscation or substitution thereof in criminal proceedings or concerning hearing of appeals against fines imposed for misdemeanours and does not use other measures specified in subsection 3 of this section in respect of seizure or judicial mortgage of the assets of the debtor applied to secure possible confiscation or substitution of confiscation in criminal proceedings.

(5) Taking account of the legitimate interests of a creditor, a court may, on the basis of a petition of the creditor, allow the continuation of suspended enforcement proceedings and allow the creditor to exercise the rights arising from the securities furnished by the debtor also before the declaration of bankruptcy, approval of a restructuring plan or termination of the proceedings.

(6) Appointment of a trusted practitioner does not preclude the filing of court claims for the recovery of assets by creditors and the resolving of such claims in enforcement proceedings. An enforcement agent transfers that which is received to the creditors covered by the restructuring plan only at the direction of the court and on the basis of the restructuring plan or upon declaration of bankruptcy in accordance with the provisions of the Bankruptcy Act.

(7) A person whose rights are restricted by an order made on the grounds provided in subsection 2, in the second sentence of subsection 3 or in subsection 5 of this section may file an appeal against such order.

§ 17. List of assets and list of debts

(1) A trusted practitioner prepares and submits to the court on behalf of the debtor:
1) a list of assets, claims and income of the debtor and family members who live together with the debtor (hereinafter the *list of assets*) as at the submission of the petition, indicating, among others, the presumed value of each item and separately the share of the debtor in joint ownership and common ownership or in the community of rights;
2) a list of financial obligations of the debtor (hereinafter the *list of debts*) as at the submission of the petition, indicating the names and contact details of all creditors, the presumed amounts of the principal claim and collateral claims, and the securities, and the extent to which the securities secure the claims, and indicating separately the current expenses (for example, housing costs, maintenance duties) and solidary obligations;
3) copies of income tax returns and payment account statements of the debtor for the past three years and of documents underlying any material liabilities (for example, loan agreements).

(2) A trusted practitioner submits to the court, together with the list of assets and the list of debts, his or her opinion on the financial situation and solvency of the debtor, the causes of payment difficulties or insolvency and the prospect of continuation of the activities of an enterprise of the debtor as well as the opinion on whether to declare bankruptcy of the debtor, initiate proceedings for the release from obligations or debt restructuring proceedings or terminate the proceedings.

(3) Where a debtor has, during five years before the submission of the petition, transferred immovables or registered movables or rights or given money as a gift or lent money to third persons to the extent of more than 3000 euros, this must also be stated in the list of assets. Transactions conforming to these conditions and made with the connected persons within the meaning of subsection 1 of § 117 of the Bankruptcy Act must be indicated separately.

(4) In the case of an insolvency petition submitted by one spouse separately, the obligations for which the other spouse is or may also be liable as well as the obligations of the other spouse for which the debtor may be liable must be indicated separately in the list of debts.

(5) In the list of debts, it must be indicated which debts are not acknowledged by the debtor. In the list of debts and the list of assets, it must be indicated whether and in respect of which assets or claims judicial proceedings or other proceedings, including enforcement proceedings, are currently being conducted.

(6) A trusted practitioner, when submitting the list of assets and the list of debts, is required to use the appropriate form established on the basis of subsection 1 of § 9 of this Act.

§ 18. Hearing of insolvency petition

(1) An insolvency petition is heard in accordance with the provisions of the Bankruptcy Act concerning the hearing of bankruptcy petitions, unless otherwise prescribed by this Act. A court considers with the debtor and trusted practitioner the prospects of payment of debts with an aim of choosing the most appropriate type of proceedings for overcoming the payment difficulties of the debtor.

(2) After hearing an insolvency petition, the court:
1) declares bankruptcy of the debtor in accordance with the provisions of § 31 of the Bankruptcy Act;

2) declares bankruptcy of the debtor and initiates proceedings for the release from obligations in accordance with the provisions of § 31 of the Bankruptcy Act and § 45 of this Act;
3) initiates debt restructuring proceedings in accordance with the provisions of § 19 of this Act;
4) denies the petition; or
5) terminates the proceedings by abatement in accordance with the provisions of § 29 of the Bankruptcy Act.

(3) A court may make one of the decisions specified in subsection 2 of this section regardless of whether the insolvency petition has been submitted by a debtor or creditor. The court cannot decide on the initiation of any of the proceedings specified in subsection 2 against the will of the debtor, except for declaration of bankruptcy on the basis of an insolvency petition of a creditor.

(4) An order on hearing an insolvency petition is forwarded to the debtor and the creditor who has submitted the insolvency petition and a notice concerning the order is published in the official publication *Ametlikud Teadaanded*. Where a court dismisses or denies an insolvency petition, it does not publish a notice concerning it, except if the court has previously published notices in the same matter in the specified publication.

(5) A court may dismiss a petition where any of the grounds appear in case of which the petition should not have been accepted.

(6) Where spouses have submitted a joint insolvency petition, a court makes procedural determinations specified in subsection 2 of this section regarding them separately. A court may initiate joint debt restructuring proceedings regarding the spouses.

(7) Where necessary, the court hears the opinions of the debtor or his or her creditors or requests additional information or documents from them upon hearing an insolvency petition. A court may request information concerning the financial situation or solvency of a debtor and of family members who live together with him or her also from other persons and agencies, including credit institutions.

(8) A court may require a debtor to swear in court that the information submitted to the court concerning his or her assets, debts and business or professional activities is correct to the debtor's knowledge. For this, the debtor takes the following oath orally: “I, (name), swear by my honour and conscience that the information submitted to the court concerning assets, debts and activities is correct to my knowledge.” The debtor signs the text of the oath.

(9) In the hearing of an insolvency petition by the court, the parties to the proceedings are the creditor who has filed the insolvency petition and the debtor.

(10) A debtor and the creditor who has submitted the insolvency petition may file appeals against the order made on hearing the insolvency petition. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

Chapter 3
Debt Restructuring Procedure

Subchapter 1
Initiation of Proceedings and Preparation, Submission and Approval of Restructuring Plan

§ 19. Initiation of debt restructuring proceedings

(1) A court initiates debt restructuring proceedings where a debtor has payment difficulties but is not permanently insolvent yet, especially where payment difficulties of the debtor cannot obviously be overcome without the conduct of debt restructuring proceedings, among others, by realising the assets of the debtor to the extent that can be reasonably expected of the debtor. A debtor is deemed to be in payment difficulties where he or she is unable or likely to be unable to meet his or her obligations when they fall due.

(2) Before the initiation of debt restructuring proceedings, the court sets an amount that the debtor must pay in the prescribed account as a deposit to cover the remuneration and expenses of a trusted practitioner and the time limit for payment of this amount. Considering the financial situation of a debtor, the court may allow the set amount to be paid in instalments during the proceedings. The debtor may file an appeal against the order.

(3) A court may decide not to initiate debt restructuring proceedings where:
1) the debtor has intentionally or through gross negligence submitted incorrect or incomplete information concerning his or her assets, income, creditors or obligations;

2) the debtor refuses to swear that the submitted information is correct or to submit additional information requested by the court;
3) the debtor has been convicted of a bankruptcy offence or a criminal offence relating to enforcement proceedings, a tax offence or a criminal offence specified in § 381 or § 381[1]of the Penal Code and the records have not been deleted from the criminal records database;
4) during the preceding three years before the submission of a petition or thereafter, the debtor has intentionally or through gross negligence provided incorrect or incomplete information concerning his or her financial situation in order to receive benefits or other advantages from the state, a local authority or foundation or to evade payment of taxes;
5) during the preceding three years before the appointment of a trusted practitioner or thereafter, the debtor has intentionally or through gross negligence hindered satisfaction of the claims of creditors or intentionally made transactions which damage the interests of creditors, whereas damaging the interests of creditors may, among others, consist in the hiding or squandering of assets;
6) the debtor has failed to pay an amount set by the court as a deposit in the prescribed account to cover the remuneration and expenses of a trusted practitioner.

(4) A court refuses to initiate debt restructuring proceedings where it has already initiated debt restructuring proceedings of the debtor or decided on the release of the debtor from obligations during the preceding ten years before the submission of the petition.

(5) Where a court initiates debt restructuring proceedings of a debtor, it sets a term of up to 60 days during which the trusted practitioner must submit a restructuring plan to the court. Where necessary, the court may extend the term by up to 30 days.

(6) Where a court initiates debt restructuring proceedings of a debtor, the term for recovering a transaction or other act provided in the Bankruptcy Act and the Code of Enforcement Procedure is extended by the period of time from the appointment of a trusted practitioner until the termination of debt restructuring proceedings, but not beyond eight years before the appointment of a trusted practitioner on the basis of subsection 3 of § 34 of this Act or the commencement of the terms for recovery specified in the Code of Enforcement Procedure.

§ 20. Preparation and submission of debt restructuring plan

(1) After the initiation of debt restructuring proceedings, a trusted practitioner prepares and submits to the court on behalf of the debtor a debt restructuring plan approved by the debtor (hereinafter also the *restructuring plan*) which sets out:
1) which obligations are requested to be restructured and in which manner;
2) the term for compliance with the restructuring plan;
3) substantiation that upon taking the measures for restructuring the debts the debtor is able to meet the obligations and it is likely that his or her permanent insolvency can be prevented;
4) calculation of the remuneration of the trusted practitioner.

(2) Where only part of the debts is requested to be restructured or different debts are requested to be restructured to a different extent by a restructuring plan, the difference in the treatment of creditors must be reasoned.

(3) Upon preparing a restructuring plan, a trusted practitioner assesses whether the claims to be restructured are certified and lawful and provides an assessment of the claims which actually do not exist, the amounts of which are unclear or the lawfulness or certification of which cannot be determined.

(4) Where spouses have submitted a joint insolvency petition and the court has initiated joint debt restructuring proceedings regarding them, a joint restructuring plan is prepared regarding the spouses.

(5) A trusted practitioner, when submitting a restructuring plan, is required to use the form established on the basis of subsection 1 of § 9 of this Act. The use of the form of the restructuring plan is not mandatory in the case of a sole proprietor who seeks the restructuring of the enterprise.

§ 21. Contents of restructuring of debts

(1) In debt restructuring proceedings, the financial obligations of a debtor (hereinafter *personal debts*) are allowed to be restructured through the extension of the term for performance of obligations, the performance of obligations in instalments or the reduction of obligations. The use of one debt restructuring measure does not preclude the use of another measure, including in the case of one and the same claim.

(2) Only the extension of the term for performance and the performance in instalments are allowed in debt restructuring proceedings in case of the following claims:
1) claims for support;
2) claims for compensation for damage caused by an intentional unlawful act.

(3) The obligations of a debtor that have fallen due by the time of submission of an insolvency petition can be restructured in debt restructuring proceedings. In addition, obligations arising from long-term contracts which are created or fall due after the submission of an insolvency petition can be restructured on the conditions provided in § 22 of this Act.

§ 22. Restructuring of obligations arising from long-term contracts

(1) A restructuring plan may prescribe that where financial obligations which fall due after the submission of an insolvency petition arise to a debtor from a credit contract or other long-term contract entered into by the debtor before the submission of the insolvency petition, such contract terminates upon approval of the restructuring plan. Termination of the contract has the same consequences as extraordinary cancellation of the contract due to circumstances arising from the debtor. The obligations of the debtor arising as a consequence of termination of the contract can be restructured in advance by the restructuring plan.

(2) A restructuring plan may prescribe that instead of termination of the credit contract specified in subsection 1 of this section, the financial obligations of the debtor arising therefrom and falling due during one year after the approval of the restructuring plan are restructured. These obligations can be restructured only such that the term for performance of the obligations is extended or the debtor is allowed to perform the obligations in instalments.

(3) Where the obligations arising from a leasing contract are desired to be restructured in the manner provided in subsection 2 of this section, the lessor who is a creditor may extraordinary cancel the contract during one week after approval of the restructuring plan. For this purpose, the restructuring plan may also prescribe the restructuring of the claims arising as a result of extraordinary cancellation of the contract, including reduction of the obligations.

§ 23. Duties of debtor

(1) A debtor provides the court and the trusted practitioner and at the direction of the court also the creditors immediately with information that they need in connection with debt restructuring proceedings.

(2) A debtor provides prompt assistance to the trusted practitioner in the performance of his or her duties. Where the court or the trusted practitioner deems it necessary to check the assets of the debtor to determine the financial situation of the debtor, the debtor is required to show his or her assets or to provide access to the assets.

(3) Where a debtor fails to perform the duties provided in subsections 1 and 2 of this section, a court may refuse to approve a restructuring plan.

§ 24. Notification of creditors

(1) After preparation of a restructuring plan and before its submission to the court, the trusted practitioner serves it together with the petition, the list of assets and the list of debts of the debtor and other enclosures immediately on the creditors specified in the restructuring plan whose claims are requested to be restructured.

(2) Upon serving a restructuring plan on the creditors, the trusted practitioner sets a term for submission of positions to the trusted practitioner which is no less than two weeks but not more than four weeks after receipt of the restructuring plan. A creditor submits a position on whether the creditor agrees with the information of the debtor concerning the claim and the extent to which the claim is secured, the debtor's calculation of the debt and the restructuring of the debt in the manner requested by the debtor. Where a creditor does not agree with the restructuring of the debt in the manner requested by the debtor, it must state whether it would agree with the restructuring of the debt in another manner. A trusted practitioner also refers to the consequences of failure to submit a position.

(3) A trusted practitioner forwards the positions of the creditors together with the restructuring plan to the court.

§ 25. Determination of amount of claim

(1) Where a creditor whose claim is desired to be restructured does not agree with the amount of the claim and other information provided in the list of debts, the creditor submits a petition to the trusted practitioner within the term set on the basis of subsection 2 of § 24 of this Act, where the creditor indicates the circumstances in the list of debt the creditor disagrees with, and submits evidence concerning the objections of the creditor. Upon failure to submit a petition by the due date, the creditor is deemed to have agreed with the amount of the claim.

(2) Where a trusted practitioner does not agree with an objection set out in the petition of the creditor specified in subsection 1 of this section, the trusted practitioner forwards, together with the restructuring plan, the petition together with evidence to the court and substantiates why the trusted practitioner disagrees with the information set out in the petition. Together with the restructuring plan, the trusted practitioner forwards to the court also the positions, petitions and evidence submitted by the creditors.

(3) On the basis of the submitted allegations and evidence, the court decides the amount of the principal claim and the collateral claim of the creditor and the existence of security upon approving the plan. Where necessary, the court previously hears the debtor and the affected creditor.

(4) A court may decide not to determine the amount of the claim of a creditor or to determine it only in part, where the claim that is desired to be restructured actually does not exist in the opinion of the court, its amount is unclear or the lawfulness or certification of the claim cannot be reasonably determined.

(5) An order by which the amount of the principal claim and the collateral claim of a creditor is determined or refused to be determined is served on the debtor, the creditor and the trusted practitioner.

(6) A debtor may file an appeal against a court order by which the amount of the principal claim and the collateral claim of a creditor is determined or refused to be determined.

§ 26. Approval of restructuring plan

(1) A court approves a restructuring plan where none of the creditors nor the debtor have objected thereto in a timely manner.

(2) A court may also approve a restructuring plan in the event that the debt restructuring is agreed to by at least one-half of the creditors with unsecured claims whose claims account for at least one-half of unsecured claims and, on the basis of the restructuring plan, a creditor who has filed an objection to the restructuring is not treated substantially less favourably as compared to other creditors, unless there is a good reason to prefer certain creditors.

(3) A court may also approve a restructuring plan with which creditors did not agree or with which they agreed to a lesser extent than provided in subsection 2 of this section, where, in the opinion of the court:
1) the debt restructuring is reasoned upon weighing the legitimate interests and rights of the parties;
2) on the basis of the restructuring plan, no creditor is treated substantially less favourably as compared to other creditors, unless there is a good reason to prefer certain creditors.

(4) Upon the weighing of the interests and rights specified in clause 1 of subsection 3 of this section, the court assesses, among others, the extent to which it would be possible to satisfy in bankruptcy proceedings the claim of the creditor who has filed an objection as compared to the amount payable to this creditor on the basis of the restructuring plan. Comparative data about bankruptcy proceedings are prepared, taking into account that bankruptcy proceedings are conducted as at the initiation of debt restructuring proceedings, considering also changes in the value of money over time. Upon comparing, also the option of releasing the debtor who is a natural person from debts is taken into account, proceeding from the income of the debtor during the restructuring proceedings. The provisions of this subsection are also stated in the statement of reasons of the order on approval of a restructuring plan.

(5) Upon approving a restructuring plan on the basis provided in subsection 3 of this section, a court is not bound by the requests of the debtor and creditors, but may, among others, approve the restructuring of only part of the debts and change the manner and extent of restructuring. In such case the court takes into account the extent to which the debtor should reasonably realise his or her assets as well as the opportunities to recover or otherwise reclaim the assets of the debtor. The court may not change the extent and manner of restructuring debts to be less favourable for the creditor than requested by the debtor.

(6) A secured claim may be restructured only if the creditor agrees thereto, even if the pledgor is a third person. This does not preclude or restrict the restructuring of a claim which remains after the realisation of the pledge pursuant to the general procedure. The consent of the pledgee is not required for terminating a credit contract in accordance with subsection 1 of § 22 of this Act.

(7) Reduction of the creditor's claims for interest and fines for delay to the amount provided by law is not deemed to be less favourable treatment of the creditor.

(8) Before approval of a restructuring plan, a court may hear the debtor and creditors and appoint an expert to assess whether the debt restructuring is justified. The provisions of the Code of Civil Procedure concerning experts apply to experts, taking account of the specifications provided in this Act.

(9) Together with the approval of a restructuring plan, the court may impose conditions on the debtor for the purpose of compliance therewith, among others, regarding reporting, as well as to require him or her to have certain transactions approved by the court or trusted practitioner.

§ 27. Refusal to approve and amendment of restructuring plan

(1) A court may refuse to approve a restructuring plan regardless of the provisions of subsections 1–3 of § 26 of this Act where:
1) a debtor is not in payment difficulties or these can obviously be overcome without debt restructuring, among others, by realising the assets of the debtor to the extent that can be reasonably expected of the debtor or by recovery or otherwise reclaiming of the assets of the debtor;
2) compliance with the restructuring plan is unlikely considering the assets and income of the debtor;
3) the debtor has intentionally or through gross negligence submitted incorrect or incomplete information concerning his or her assets, income, creditors or obligations;
4) the debtor breaches the duties to provide information and assistance;

5) in the case of a request to restructure an enterprise, sustainable management of the enterprise after the restructuring is unlikely.

(2) A court may, either before deciding on the approval of a restructuring plan or upon refusing to approve a restructuring plan, set an additional term to a trusted practitioner for the amendment of the restructuring plan or the submission of a new restructuring plan on the basis of the positions submitted by creditors or due to other good reasons, among others, where this may be necessary to reach an agreement with creditors. An amended restructuring plan is sent first to the affected creditors for taking positions in accordance with the rules provided in § 24 of this Act.

(3) In the case provided in clause 2 of subsection 1 of this section and where a trusted practitioner does not amend a restructuring plan, the court terminates debt restructuring proceedings. Upon terminating debt restructuring proceedings, the court may decide by the same order:
1) to declare bankruptcy of the debtor in accordance with the provisions of § 31 of the Bankruptcy Act;
2) to declare bankruptcy of the debtor and initiate proceedings for the release from obligations in accordance with the provisions of § 31 and § 45 of the Bankruptcy Act; or
3) to terminate the proceedings by abatement on the grounds specified in § 29 of the Bankruptcy Act.

(4) In the case provided in subsection 3 of this section, to declare bankruptcy or to declare bankruptcy and initiate proceedings for the release from obligations, a debtor must have expressed his or her will in the insolvency petition or previously granted a consent, except where the insolvency petition has been submitted by the creditor who has requested the declaration of bankruptcy of the debtor.

§ 28. Order on approval of restructuring plan

(1) An order by which a restructuring plan is approved or the approval of a restructuring plan is refused is served on the debtor and all creditors whose rights are affected by the restructuring plan and forwarded to the trusted practitioner. The court makes the order on approval of the restructuring plan public and publishes a notice regarding it in the official publication *Ametlikud Teadaanded*.

(2) A debtor and the creditor who has submitted the insolvency petition may file appeals against an order by which a restructuring plan has been approved or the approval of a restructuring plan has been refused. A creditor may file an appeal against the order on approval of a restructuring plan if the creditor has previously submitted an objection thereto. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

§ 29. Approval of restructuring plan in accordance with principles of reorganisation proceedings

Where a debtor requests restructuring of an enterprise, a court may, for the purposes of approval of a restructuring plan, with good reason, prescribe the approval of the restructuring plan in accordance with the rules provided in Chapter 4 of the Reorganisation Act instead of the provisions of this Chapter.

Subchapter 2
Consequences of Restructuring Plan

§ 30. General consequences of approval of restructuring plan

(1) Upon approval of a restructuring plan, the legal consequences prescribed therein apply to a debtor and a person whose rights are affected by the restructuring plan.

(2) Approval of a restructuring plan does not release a person who bears liability for an obligation solidarily with the debtor from the performance of his or her obligation. If the person who bears liability solidarily performs his or her obligation, the person has the right of recourse against the debtor only to the extent to which the debtor is liable for performance of the obligation according to the restructuring plan.

(3) Approval of a restructuring plan does not restrict the right of a creditor who has a pledge or another tangible security and who did not agree with the restructuring of the claim to satisfy the claim out of the security.

(4) A restructuring plan approved by a court is an enforcement document in respect of a claim restructured thereby. Where a restructuring plan prescribes extension of the term for the performance of an obligation, the claim cannot be enforced within the term specified in the restructuring plan.

(5) The provisions of subsection 4 of this section also apply to a person who, by a restructuring plan, assumes the obligation to secure an obligation of the debtor for the benefit of a creditor.

(6) Approval of a restructuring plan does not preclude the filing of court claims for the recovery of assets by creditors and the resolving of such claims in enforcement proceedings. An enforcement agent transfers that which is received to the creditors covered by the restructuring plan only at the direction of the court and on the basis of the restructuring plan.

§ 31. Preclusion of application of restructuring plan

A restructuring plan does not apply to a creditor on whom it has not been served for examination and for taking a position.

§ 32. Action-by-claim proceedings and enforcement proceedings during term of validity of restructuring plan

(1) During the term of validity of a restructuring plan, statements of claim under the action-by-claim procedure or petitions under the action-by-petition procedure cannot be filed on the basis of the claims to which the restructuring plan applies.

(2) After the approval of a restructuring plan, the enforcement proceedings and judicial proceedings which have been suspended upon acceptance of an insolvency petition or appointment of a trusted practitioner are continued in respect of claims to which the restructuring plan does not apply.

(3) Approval of a restructuring plan does not restrict the right of a creditor to file in judicial proceedings a claim that was not accepted in the restructuring plan. A creditor may also contest in judicial proceedings the amount of the claim in the part that was not accepted.

§ 33. Fine for delay and contractual penalty during term of validity of restructuring plan

After the approval of a restructuring plan, fines for delay and contractual penalties on claims which are not restructured by a restructuring plan are calculated as of acceptance of the insolvency petition according to the original legal relationship.

§ 34. Insolvency petition during term of validity of restructuring plan

(1) During the term of validity of a restructuring plan, an insolvency petition cannot be submitted on the basis of claims to which the restructuring plan applies.

(2) During the term of validity of a restructuring plan, an insolvency petition is heard by the judge conducting restructuring proceedings in the course of the same proceedings.

(3) Where a court accepts an insolvency petition, it appoints a trusted practitioner in accordance with the provisions of § 15 of this Act. The court may appoint the trusted practitioner who exercises supervision over compliance with the restructuring plan as a trusted practitioner or involve him or her in the hearing of the insolvency petition.

(4) Where a court appoints a trusted practitioner other than the one appointed in the debt restructuring proceedings of the debtor to the hearing of the insolvency petition, the activities of the other trusted practitioner must not unnecessarily obstruct compliance with the restructuring plan. The trusted practitioners must cooperate with each other in every way.

(5) Where a court establishes that, taking account of the provisions of the restructuring plan, there are still grounds to declare bankruptcy of the debtor, the court annuls the restructuring plan by the same order and terminates the restructuring proceedings.

(6) A court cannot initiate new debt restructuring proceedings on the basis of an insolvency petition submitted during the term of validity of a restructuring plan.

(7) A debtor and the creditor who has submitted the insolvency petition may file appeals against the court order by which the court resolves the insolvency petition. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

§ 35. Supervision over compliance with restructuring plan

(1) Supervision over compliance with a restructuring plan is exercised by the trusted practitioner.

(2) A debtor provides information which is required for the exercise of supervision to the court and the trusted practitioner and assists upon performance of the supervision obligation.

(3) A debtor submits a report on the financial situation of the debtor and on compliance with the restructuring plan to the trusted practitioner after the lapse of each year after approval of the restructuring plan by the due date set by the court, unless the court decides otherwise.

(4) The trusted practitioner submits a report to the court by termination of the debt restructuring proceedings of the debtor.

(5) The court may request a report on compliance with the restructuring plan from a debtor or the trusted practitioner also at another time.

§ 36. Amendment of restructuring plan

(1) In case the circumstances change, especially where the financial situation of a debtor significantly changes or the appeared actual financial situation of the debtor differs significantly from the information presented to the court, the debtor, trusted practitioner or creditors may submit a request to the court for amending the restructuring plan or for changing the term for compliance therewith. A restructuring plan may also be amended where a court decision has been made on the validity or amount of any claim.

(2) A restructuring plan may be extended to a claim which fell due after submission of the insolvency petition or approval of the restructuring plan where these are based on a transaction made prior thereto or on other legal grounds.

(3) A restructuring plan may be extended to claims remaining after the realisation of a pledge where such claim is based on a transaction made prior to submission of the insolvency petition or approval of the restructuring plan or on other legal grounds.

(4) The provisions of §§ 24–29 of this Act apply to amendment and approval of a restructuring plan. The creditors whose rights are desired to be restricted by amendment of the restructuring plan are involved in this.

Subchapter 3
Termination of Proceedings

§ 37. Grounds for termination of debt restructuring proceedings

(1) Debt restructuring proceedings terminate upon annulment of the restructuring plan, termination of the proceedings, compliance with the restructuring plan before the due date or upon expiry of the term for compliance with the restructuring plan set out in the plan.

(2) In case an insolvency petition is dismissed or denied or the proceedings are terminated, all consequences of acceptance of the petition cease to exist retroactively.

§ 38. Consequences of expiry of term for compliance with restructuring plan

After expiry of the term for compliance with a restructuring plan, a creditor may enforce a claim restructured by the restructuring plan only to the extent which is agreed in the plan but which has not been fulfilled.

§ 39. Compliance with restructuring plan before due date

Upon compliance with a restructuring plan before the due date, the proceedings are terminated if the debtor has performed all the obligations assumed in the restructuring plan before the expiry of the term for compliance with the plan.

§ 40. Debt restructuring proceedings in case of death of debtor during term of validity of restructuring plan

(1) Where a debtor dies during the term of validity of a restructuring plan, a court terminates the debt restructuring proceedings.

(2) The legal consequences prescribed in the restructuring plan apply to successors of the debtor.

(3) Upon declaration of bankruptcy of the estate of a debtor, the restructuring plan becomes invalid and the provisions of subsections 4 and 5 of § 41 of this Act apply thereto.

(4) Where debt restructuring proceedings were initiated on the basis of a joint insolvency petition of spouses, the proceedings may be continued regarding the surviving spouse. The plan may be amended in accordance with the provisions of § 36 of this Act.

§ 41. Annulment of restructuring plan

(1) A court annuls a restructuring plan on the basis of a petition of a debtor as well upon declaration of bankruptcy of a debtor.

(2) A court may also annul a restructuring plan in case it appears that:
1) the debtor does not perform the obligations under the restructuring plan to a material extent;
2) where, upon expiry of at least one-half of the term of validity of the restructuring plan, it is evident that the debtor is unable to perform the obligations assumed thereby;
3) the debtor is not in payment difficulties or has overcome these and the restructuring of the claims of creditors is no longer fair to them due to material changes in the circumstances;
4) the debtor has intentionally or through gross negligence submitted incorrect or incomplete information concerning his or her assets, income, creditors or obligations;
5) the debtor has made payments to the creditors not specified in the restructuring plan, significantly damaging the interests of other creditors;
6) the debtor does not assist the court or trusted practitioner upon performance of the supervision obligation or does not provide information that is required to exercise supervision;
7) the debtor fails to pay an amount set by the court as a deposit in the prescribed account to cover the remuneration and expenses of a trusted practitioner or expert.

(3) Upon annulment of a restructuring plan, the consequences of acceptance of an insolvency petition cease to exist retroactively, except for the consequences specified in subsection 6 of § 19 of this Act. The right of claim of a creditor whose claim was restructured by a restructuring plan is restored against the debtor in the initial amount. In such case, all that the creditor has already received in the course of compliance with the restructuring plan is taken into account.

(4) A court makes the annulment of a restructuring plan public, publishes a notice on it in the official publication *Ametlikud Teadaanded*and, after its entry into force, notifies the enforcement agent who conducts the enforcement proceedings which have been suspended and the court that conducts the judicial proceedings which have been suspended thereof. A court may require a trusted practitioner to perform the notification obligation.

(5) Where a restructuring plan is annulled and, within the following three months, the debtor is declared bankrupt, the claims for remuneration and reimbursement of expenses of the trusted practitioner and expert in these proceedings are deemed to be accepted without defence.

(6) Upon annulment of a restructuring plan, a court may, by the same order:
1) declare bankruptcy of the debtor in accordance with the provisions of § 31 of the Bankruptcy Act;
2) declare bankruptcy of the debtor and initiate proceedings for the release from obligations in accordance with the provisions of § 31 of the Bankruptcy Act and § 45 of this Act; or
3) terminate the proceedings by abatement on the grounds specified in § 29 of the Bankruptcy Act.

(7) For the initiation of the proceedings provided in subsection 6 of this section, a debtor must have expressed his or her will in the insolvency petition or grant a consent, except where the insolvency petition has been submitted by a creditor who has requested the declaration of bankruptcy of the debtor. The order is forwarded to the debtor and the creditor who has submitted the insolvency petition and a notice concerning it is published in the official publication *Ametlikud Teadaanded*.

(8) Where this is justified, a court may, in the case of a joint insolvency petition of spouses, make different procedural determinations specified in subsection 6 of this section regarding the spouses.

(9) A debtor and creditors may file appeals against the court order by which the court annuls a restructuring plan. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

§ 42. Publication of notice on termination of proceedings

A court publishes a notice on termination or expiry of the debt restructuring proceedings of a debtor in the official publication *Ametlikud Teadaanded*and, after its entry into force, notifies the enforcement agent who conducts the enforcement proceedings which have been suspended and the court that conducts the judicial proceedings which have been suspended thereof. A court may require a trusted practitioner to perform the notification obligation.

Chapter 4
Bankruptcy Procedure and Procedure for Release from Obligations

Subchapter 1

Bankruptcy Procedure

§ 43. Bankruptcy proceedings of debtor who is natural person

Declaration of bankruptcy of a debtor who is a natural person and conduct of bankruptcy proceedings are carried out in accordance with the rules provided in the Bankruptcy Act, unless otherwise provided in this Act.

Subchapter 2
Procedure for Release from Obligations

§ 44. Release of debtor from obligations

A debtor who is a natural person, regardless of whether he or she is a sole proprietor, may be released from the obligations that were not performed in the bankruptcy proceedings. Obligations assumed during bankruptcy proceedings and proceedings for the release from obligations are not subject to release. A debtor is released from his or her obligations on the grounds and in accordance with the rules provided in this Subchapter.

§ 45. Initiation of proceedings

(1) Initiation of proceedings for the release of a debtor from obligations is decided by the court upon declaration of bankruptcy. A creditor may file an objection against the initiation of proceedings for the release of a debtor from obligations based on the circumstances specified in subsection 3 of this section. Where a court initiates proceedings for the release of a debtor from obligations, the proceedings commence at the same time with the declaration of bankruptcy.

(2) Where a basis for abatement specified in subsection 1 or 2 of § 29 of the Bankruptcy Act exists and the debtor has requested the initiation of proceedings for the release from obligations, the court declares bankruptcy only if it decides to initiate proceedings for the release from obligations at the same time.

(3) A court may decide not to initiate proceedings for the release of a debtor from obligations where:
1) the debtor has been convicted of a bankruptcy offence or a criminal offence relating to enforcement proceedings, a tax offence, money laundering offence, fraud or a criminal offence specified in § 214, § 217^{2}, § 381 or § 3811 of the Penal Code;
2) during the preceding three years before the appointment of a trusted practitioner, or thereafter, the debtor has intentionally or through gross negligence provided incorrect or incomplete information concerning his or her financial situation in order to receive benefits or other advantages from the state, a local authority or foundation or to evade payment of taxes;
3) during the preceding ten years before the appointment of a trusted practitioner, a court has decided to release the debtor from obligations;
4) during the preceding three years before the appointment of a trusted practitioner or thereafter, the debtor has intentionally or through gross negligence hindered satisfaction of the claims of creditors, whereas squandering of assets is also deemed to be damaging the interests of creditors;
5) the debtor has intentionally or through gross negligence submitted incorrect or incomplete information in the list of debts concerning his or her assets, income, creditors or obligations or intentionally or through gross negligence violated his or her other duties provided in this Act.

(4) Initiation of proceedings for the release of a debtor from obligations is not hindered by the circumstance that debt restructuring proceedings regarding the debtor have previously been initiated and such proceedings have terminated.

§ 46. Duties of trusted practitioner during proceedings

(1) Until termination of bankruptcy proceedings, the duties of a trusted practitioner are performed by a trustee in bankruptcy, primarily upon advising the debtor and upon exercising supervision over the performance of the obligations of the debtor in the proceedings for the release from obligations. Where proceedings for the release from obligations are continued after termination of bankruptcy proceedings, the trustee may continue to perform the duties of a trusted practitioner or the court may appoint a new trusted practitioner. A trustee may continue to perform the duties of a trusted practitioner even if the trustee is not entered in the list of trusted practitioners.

(2) A trusted practitioner must keep the payments received from a debtor separately from his or her own assets and make payments from the money to the creditors once a year according to the distribution ratios prescribed in the list of creditors prepared in the bankruptcy proceedings. This does not apply until termination of the bankruptcy proceedings.

(3) Each year, a trusted practitioner submits a report to the court about the proceedings for the release of a debtor from obligations.

§ 47. Duties of debtor during proceedings

(1) A debtor is required to engage in reasonably profitable activity or seek such activity if he or she does not have it.

(2) A debtor must notify the court and the trusted practitioner immediately if he or she changes residence or place of establishment, must not conceal the income or assets received, and must provide information at the request of the court or the trusted practitioner concerning his or her activities or seeking for activity and concerning his or her income and assets.

(3) The claims on the debtor's income received from an employment or service relationship or any other similar relationship or income received from business are deemed assigned to the trusted practitioner. The trusted practitioner must notify the persons obliged to make payments thereof.

(4) Out of the income specified in subsection 3 of this section, a trusted practitioner must transfer the part of income which cannot be subject to a claim and an additional 25 per cent calculated on the part of income which can be subject to a claim to the debtor. The court may determine a different rate, taking account of the circumstances.

(5) A debtor need not transfer the income which cannot be subject to a claim pursuant to law to the trusted practitioner. The debtor must immediately inform the trusted practitioner about the receipt of such income.

(6) A debtor is required to transfer one-half of the value of the assets received by succession to the trusted practitioner.

(7) Until termination of bankruptcy proceedings, subsections 3–6 of this section do not apply, and the provisions of the Bankruptcy Act apply.

§ 48. Prohibition on filing claims for payment

(1) During the proceedings for the release of a debtor from obligations, the creditors in the bankruptcy proceedings, including the creditors in the bankruptcy proceedings who did not file their claims during the bankruptcy proceedings, cannot file claims for payment with regard to the debtor's assets.

(2) Creditors whose claim against the debtor has arisen after the declaration of bankruptcy cannot, during the proceedings for the release of the debtor from obligations, file claims for payment with regard to the amounts of money which are subject to be transferred to the trusted practitioner.

(3) Until termination of bankruptcy proceedings, subsections 1 and 2 of this section do not apply, and the provisions of the Bankruptcy Act apply.

§ 49. Decision on release of debtor from obligations

(1) The court decides on the release of a debtor from the obligations which were not performed during the bankruptcy proceedings by an order three years after initiation of the proceedings for the release of the debtor obligations.

(2) Deciding on the release from obligations does not hinder the continuation of bankruptcy proceedings, where the bankruptcy proceedings have not ended by this time.

(3) Taking into account the circumstances, the court may release a debtor, who has been duly performing his or her obligations, from the obligations which were not performed during the bankruptcy proceedings also before three years have passed from initiation of the proceedings, but not before one year has passed from initiation of the proceedings, especially if the debtor has been duly performing his or her obligations during the proceedings and the claims of creditors have been satisfied to a considerable extent.

(4) If a debtor dies during the proceedings for the release of the debtor from the obligations which were not performed during the bankruptcy proceedings, the court decides on the release of the debtor from the which were not performed during the bankruptcy proceedings by making a corresponding order. The court may release a debtor from the obligations which were not performed during the bankruptcy proceedings in the event of his or her death if no less than two years have passed from initiation of the proceedings.

(5) A court refuses to release a debtor from obligations where the debtor has intentionally or through gross negligence violated his or her duties specified in § 47 of this Act or in Chapter 4 of the Bankruptcy Act and has thereby damaged the interests of creditors. A court may refuse to release a debtor from obligations where the basis specified in subsection 3 of § 45 exists and the existence of this basis became evident after initiation of the proceedings for the release from obligations.

(6) A court may not refuse to release a debtor from obligations before the court has heard the trusted practitioner, the debtor, and the creditors who have requested to be heard.

(7) A debtor must submit information concerning performance of his or her obligations to the court under oath. Where a debtor fails to submit information within the term set by the court, the court refuses to release the debtor from the obligations which were not performed in the bankruptcy proceedings.

(8) A court may, at its own initiative or at the request of a creditor or the trusted practitioner, decide to refuse to release a debtor from obligations and terminate the proceedings for the release from obligations if a basis specified in subsection 5 or 7 of this section becomes evident before three years have passed. The creditor may submit such request within six months as of the time when the creditor became aware of the violation of the duties of the debtor.

(9) Where the court finds that the release of a debtor from obligations is not justified, because the debtor has been negligent in the performance of his or her duties specified in § 47 of this Act and has thereby damaged the interests of creditors, it may extend the proceedings and set an additional term for the debtor, after expiry of which the release from obligations is decided again. The court may extend the proceedings several times. This term in total may not exceed four years from initiation of the proceedings.

(10) Where a compromise reached in the bankruptcy proceedings of a debtor is annulled and the proceedings for the release from obligations are reopened, the period of time during which the compromise was performed is not included in the period of release from obligations. Regarding claims filed on the basis of subsection 6 of § 190 of the Bankruptcy Act, the terms for release from obligations are calculated as of reopening of the proceedings for the release from obligations.

(11) Where a court releases or refuses to release a debtor from obligations, the court terminates the proceedings for the release of the debtor from obligations.

(12) Where a debtor is released from obligations at different times based on the provisions of subsection 10 of this section, the court makes a separate order on releasing the debtor from these obligations regarding which the proceedings were reopened and from these that were filed on the basis of subsection 6 of § 190 of the Bankruptcy Act. The court terminates the proceedings for the release from obligations by the order by which it decides the release of the debtor from the obligations for which the term for release expires later. Where a court refuses to release a debtor from obligations, the court terminates the proceedings also regarding the obligations for which the term for release has not yet expired.

(13) Creditors and the debtor may file appeals against the order by which the court has released or refused to release the debtor from obligations or by which it has extended the proceedings for the release from obligations. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

(14) A court publishes a notice concerning an order on the release or refusal to release a debtor from obligations in the official publication *Ametlikud Teadaanded*.

§ 50. Consequences of releasing debtor from obligations

(1) Where a debtor is released from obligations, the claims of the creditors in the bankruptcy proceedings against the debtor, including the claims of the creditors in the bankruptcy proceedings who did not file their claims during the bankruptcy proceedings, terminate.

(2) Release of a debtor from obligations does not terminate the obligation to compensate for damage intentionally caused by unlawful action and the obligation to pay support for a child or parent.

(3) Release of a debtor from obligations does not release a person who bears liability solidarily with the debtor from the performance of the obligations of the person. Where the person who bears liability solidarily performs the obligation, the person does not have the right of recourse against the debtor if the debtor has been released from obligations.

(4) Where a debtor satisfies a claim of a creditor after the debtor has been released from obligations, the assets transferred in performance of the obligation cannot be reclaimed from the creditor.

(5) Release of a debtor from obligations may not be a hindrance to the use of national enterprise support.

(6) Where proceedings for the release of a debtor from obligations terminate by releasing the debtor from obligations before termination of the bankruptcy proceedings regarding him or her, the claims of the creditors in the bankruptcy proceedings against the debtor are deemed terminated as of termination of the bankruptcy proceedings.

(7) Release of a debtor from obligations does not hinder satisfaction of the claims of the creditors in the bankruptcy proceedings in accordance with the provisions of subsection 4 of § 165 or § 166 of the Bankruptcy Act.

§ 51. Annulment of order on release of debtor from obligations

(1) At the request of a creditor, the court may annul the order on the release of the debtor from the obligations which were not performed during the bankruptcy proceedings within one year as of the making of the order or until the end of the bankruptcy proceedings if it becomes evident that the debtor has intentionally violated his or her duties during the proceedings for the release of the debtor from obligations or during the bankruptcy proceedings and has thereby materially hindered satisfaction of the claims of the creditors. The court resolves the request of the creditor by an order.

(2) A creditor may submit a request specified in subsection 1 of this section only if the creditor became aware of the violation of the debtor's obligations only after the order on the release of the debtor from obligations was made.

(3) The court hears the debtor and the trusted practitioner before deciding on annulment of an order on the release of the debtor from the obligations which were not performed during the bankruptcy proceedings.

(4) The person who submitted the request and the debtor may file appeals against the order specified in subsection 1 of this section. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

(5) A court publishes a notice on the annulment of an order on the release of a debtor from the obligations which were not performed during the bankruptcy proceedings in the official publication *Ametlikud Teadaanded*.

§ 52. Termination of proceedings for release from obligations after basis has ceased to exist

(1) A court terminates the proceedings for the release of a debtor from obligations where the basis for initiation of the proceedings has ceased to exist, especially where the debtor satisfies all claims of creditors during the proceedings for the release from obligations.

(2) Where a court terminates the proceedings after the basis has ceased to exist, the court does not make a decision on releasing the debtor from obligations.

(3) A court publishes a notice concerning termination of the proceedings for the release of a debtor from obligations after the basis has ceased to exist in the official publication *Ametlikud Teadaanded*.

Chapter 5
Trusted Practitioner

Subchapter 1
Performance of Duties of Trusted Practitioner and Supervision

§ 53. Duties of trusted practitioner and supervision

(1) The duties of a trusted practitioner are to determine the assets and obligations of a debtor and inform the court and creditors of the economic situation of the debtor and the possibilities of overcoming the payment difficulties in an impartial and competent manner, to advise and assist the debtor during the proceedings on the insolvency petition as well as in the proceedings for the release from obligations and the debt restructuring proceedings and to exercise supervision in the debt restructuring proceedings and the proceedings for the release from obligations.

(2) During the proceedings on the insolvency petition, a trusted practitioner:
1) prepares the list of assets and the list of debts of a debtor on behalf of the debtor and submits these together with the necessary documents to the court;
2) submits to the court an opinion on the economic situation of the debtor and the type of proceedings suitable for resolving it;
3) performs the duties of an interim trustee provided by law in the proceedings on the insolvency petition of a debtor who is a natural person;
4) performs other duties arising from law or assigned by the court which are necessary for the proceedings on the insolvency petition.

(3) In debt restructuring proceedings, a trusted practitioner:
1) prepares the debt restructuring plan of a debtor and submits it to the court on behalf of the debtor;
2) serves the debt restructuring plan on the creditors whose claims are restructured by the restructuring plan and requests the position of the creditors on the amount and restructuring of the claim of the creditor;

3) assesses whether the claim to be restructured is certified and lawful, and informs the court of a claim which actually does not exist, the amount of which is unclear or the lawfulness or certification of which cannot be determined;
4) exercises supervision over compliance with the restructuring plan;
5) at the end of the proceedings, submits a report on compliance with the debt restructuring plan of the debtor to the court;
6) performs other duties arising from law or assigned by the court which are necessary for the conduct of debt restructuring proceedings.

(4) In proceedings for the release from obligations, a trusted practitioner:
1) exercises supervision over performance of the duties of a debtor in the proceedings for the release of the debtor from obligations;
2) keeps the payments received from the debtor and makes payments from these to the creditors in accordance with the rules provided in law;
3) submits a report on the proceedings for the release of the debtor from obligations to the court each year;
4) performs other duties arising from law or assigned by the court which are necessary for the conduct of proceedings for the release of the debtor from obligations.

(5) A trusted practitioner performs his or her duties with due diligence and honesty and takes the interests of all the parties to the proceedings into account.

(6) A trusted practitioner has the right to require information and documents which the trusted practitioner needs to perform his or her duties from the debtor, creditors, agencies of the state and of a local authority and credit institutions as well as from other persons and employees of the debtor and former employees who have resigned within the preceding two years before the submission of the insolvency petition. To perform his or her duties, a trusted practitioner has also other rights provided in this Act.

(7) A trusted practitioner is required, during the period of his or her employment or service relationship and after termination thereof, to maintain the business, banking and tax secrets and confidentiality of the information relating to the private and family life and other confidential information which has become known to the trusted practitioner due to the performance of his or her duties.

(8) Supervision over trusted practitioners is exercised by the court in accordance with the provisions of § $477^2$of the Code of Civil Procedure.

§ 54. Remuneration of trusted practitioner and reimbursement of expenses

(1) A trusted practitioner has the right to receive remuneration in the amount determined by the court for the performance of his or her duties and demand reimbursement of the necessary expenses which are incurred in the performance of his or her duties and are not covered by the remuneration.

(2) Until the end of hearing an insolvency petition, the remuneration and necessary expenses are reimbursed to a trusted practitioner in accordance with the provisions of the Bankruptcy Act concerning compensation of remuneration and necessary expenses of trustees in bankruptcy. The court determines the compensation of remuneration and necessary expenses of a trusted practitioner upon making the decision specified in subsection 2 of § 18 of this Act.

(3) In debt restructuring proceedings and proceedings for the release from obligations, remuneration for a trusted practitioner is determined in accordance with the provisions of this section. The court determines the compensation of remuneration and necessary expenses of a trusted practitioner in debt restructuring proceedings upon approval of the plan and in proceedings for the release from obligations and in debt restructuring proceedings upon exercising supervision over the plan after the lapse of each year.

(4) A court determines remuneration for a trusted practitioner at the request of the trusted practitioner. The court determines the amount of the remuneration taking into account the volume and complexity of the work and the professional skills of the trusted practitioner. A trusted practitioner must submit a calculation of the remuneration together with the request.

(5) The maximum hourly wage of a trusted practitioner in debt restructuring proceedings until approval of the plan is the amount corresponding to one-fifth of the minimum monthly wage established on the basis of subsection 5 of § 29 of the Employment Contracts Act. The maximum hourly wage of a trusted practitioner upon exercising supervision over a debt restructuring plan and in proceedings for the release from debts is the amount corresponding to one-tenth of the minimum monthly wage established on the basis of subsection 5 of § 29 of the Employment Contracts Act. In adding taxes to the remuneration of a trusted practitioner, the provisions of subsection $1^1$of § 65 of the Bankruptcy Act apply. The remuneration of a trusted practitioner also covers the general costs relating to the activities of the trusted practitioner, including the maintenance costs of the office, communications costs and domestic travel costs.

(6) The remuneration of a trusted practitioner is paid and the expenses are reimbursed in proceedings for the release from obligations on the basis of an order out of the assets assigned to the trusted practitioner by the debtor. Payment made to a trusted practitioner to cover the remuneration and necessary expenses may not exceed ten per cent of the assets assigned to the trusted practitioner.

(7) To pay the remuneration of a trusted practitioner in the proceedings for the release from obligations, a court may order payment of financial aid to a debtor at the request of the debtor in accordance with the provisions of subsection 2 of § 183 of the Code of Civil Procedure where the debtor lacks sufficient assets or income for payment of the remuneration of a trusted practitioner.

(8) In the case provided in clause 3 of subsection 1 of § 55 of this Act, a court may reduce the remuneration which is ordered to be paid to a trusted practitioner.

(9) A court may order the remuneration of a trusted practitioner and the expenses subject to be reimbursed to be paid to the office through which the trusted practitioner operates.

(10) The minister in charge of the policy sector may, by an order, establish the procedure for calculation of the remuneration of a trusted practitioner and the expenses subject to be reimbursed.

(11) A trusted practitioner, a debtor and creditors may file appeals against the order made on determining the remuneration of a trusted practitioner and reimbursement of the necessary expenses. Appeals may be filed against the order of the circuit court of appeal on the appeal against the order.

§ 55. Release of trusted practitioner

(1) A court releases a trusted practitioner:
1) at his or her request;
2) at the end of proceedings for the release from obligations or debt restructuring proceedings or where the court decides to deny the insolvency petition on the basis of subsection 2 of § 18 of this Act or declares bankruptcy of the debtor and does not appoint him or her as a trustee in bankruptcy;
3) where the trusted practitioner has failed to perform his or her duties or has performed them inadequately;
4) where it appears that the trusted practitioner does not have the right to act as a trusted practitioner or he or she does not comply with the requirements provided in subsections 4 and 5 of § 15 of this Act.

(2) A trusted practitioner notifies the court of a request to be released in writing ten days in advance.

(3) On the grounds specified in clauses 3 and 4 of subsection 1 this section, a court releases a trusted practitioner on the initiative of the court or on the basis of a petition of the debtor or creditor.

(4) Where a trusted practitioner is released during debt restructuring proceedings or proceedings for the release from obligations, the court appoints a new trusted practitioner. This does not affect the validity of the acts performed by or with respect of the former trusted practitioner. The court publishes a notice concerning the change of the trusted practitioner in the official publication *Ametlikud Teadaanded*.

(5) A released trusted practitioner submits to the court an operational report on the conduct of the proceedings and performance of the duties of the trusted practitioner and a request for determining the remuneration for the trusted practitioner. The released trusted practitioner delivers the file compiled about the proceedings to the new trusted practitioner.

(6) A trusted practitioner may file an appeal against the order by which the court released the trusted practitioner on the ground specified in clause 3 or 4 of subsection 1 of this section. A circuit court of appeal resolves the appeal against the order by a reasoned order.

(7) The debtor or creditor who has submitted a petition may file an appeal against the order by which the court has refused to release a trusted practitioner on the basis of the petition specified in subsection 3 of this section.

§ 56. Administrative oversight

(1) The management board of the Bankruptcy and Reorganisation Section of the Chamber of Enforcement Agents and Trustees in Bankruptcy (hereinafter the *Chamber*) exercises administrative oversight over the activities of trusted practitioners to the extent provided by law.

(2) The management board of the Bankruptcy and Reorganisation Section of the Chamber exercises administrative oversight over the activities of trusted practitioners on the basis of the information which becomes known to the management board of the Bankruptcy and Reorganisation Section of the Chamber and which gives reason to believe that the trusted practitioner has violated his or her obligations.

(3) In exercising administrative oversight over the activities of a trusted practitioner, the management board of the Bankruptcy and Reorganisation Section of the Chamber has the right to verify whether the professional activities of the trusted practitioner are in conformity with the requirements and the law. An auditor or another expert may be involved in the exercising of administrative oversight. The management board of the Bankruptcy

and Reorganisation Section of the Chamber may involve other employees of the Chamber in the exercising of supervision.

(4) The management board of the Bankruptcy and Reorganisation Section of the Chamber notifies the court of a violation of the duties of a trusted practitioner discovered in the course of administrative oversight.

(5) In order to exercise administrative oversight, the management board of the Bankruptcy and Reorganisation Section of the Chamber has the right to:
1) obtain necessary information, explanations and documents from the trusted practitioner, debtor, creditors and agencies of the state and of a local authority;
2) examine the court file of the matter and reports of the trusted practitioner as well as the statements of the professional payment account of the trusted practitioner;
3) issue opinions and recommendations to the trusted practitioner.

§ 57. Disciplinary liability

(1) The court of honour of the Chamber may impose a disciplinary penalty for violation of the duties arising from legislation regulating the professional activities of trusted practitioners.

(2) The court of honour of the Chamber may impose a disciplinary penalty, among others:
1) for violation of the decisions of a body of the Chamber;
2) for an indecent act which is in conflict with the generally recognised moral standards or which decreases the trustworthiness of the profession of trusted practitioner, regardless of whether the act is committed in the performance of duties of a trusted practitioner.

(3) The court of honour of the Chamber does not hear a matter of an advocate who is a member of the Chamber or punish him or her under disciplinary procedure. The court of honour of the Chamber may request the court of honour of the Bar Association to initiate the proceedings of the court of honour with regard to an advocate.

(4) The disciplinary penalties imposed by the court of honour of the Chamber are:
1) reprimand;
2) a fine of 64–3,000 euros;
3) prohibition on acting as a trusted practitioner for up to five years.

(5) A fine imposed as a disciplinary penalty must be paid within three months as of the imposition thereof. The amount of a fine is transferred to the part-budget of the Bankruptcy and Reorganisation Section of the Chamber. A decision imposing a fine may prescribe that the fine is payable in instalments on specified dates during a period of one year.

(6) A decision on a fine imposed as a disciplinary penalty is an enforcement instrument within the meaning of clause 21 of subsection 1 of § 2 of the Code of Enforcement Procedure.

(7) One disciplinary penalty may be imposed for one and the same violation. Releasing a trusted practitioner or imposing of a fine by a court on the basis of subsection 8 of § 53 of this Act is not deemed to be disciplinary penalty. Upon imposing a disciplinary penalty, no account is taken of punishment for a misdemeanour or criminal punishment imposed for the same offence or disciplinary penalty imposed by another body or official not specified in this Act.

(8) Where it becomes evident that a trusted practitioner has violated his or her duties in the bankruptcy proceedings which are currently being conducted, the court of honour of the Chamber has the right not to impose a disciplinary penalty and request the court to:
1) release the trusted practitioner;
2) impose a fine on the trusted practitioner.

(9) Before submission of a request specified in subsection 8 of this section, the court of honour of the Chamber demands a written explanation concerning the circumstances relating to the violation of duties from the trusted practitioner.

(10) A disciplinary penalty may be imposed within one year as of the date of becoming aware of the violation.

(11) A disciplinary penalty may not be imposed where the limitation period of the disciplinary offence has expired. The limitation period of a disciplinary offence is three years from the commission of the offence. The limitation period of a disciplinary offence is interrupted during the period of the disciplinary procedure, including during the judicial proceedings, as well as during the term for filing appeals or appeals in cassation.

(12) A disciplinary penalty expires where no new disciplinary penalty is imposed on the trusted practitioner within three years as of the date on which the penalty was imposed.

Subchapter 2
Practising as Trusted Practitioner

§ 58. Right to act as trusted practitioner

(1) A person has the right to act as a trusted practitioner if the person is entered in the list of trusted practitioners.

(2) A natural person with active legal capacity is entered in the list of trusted practitioners if the person:
1) has acquired officially recognised Bachelor's degree or a qualification equal thereto within the meaning of subsection 2^2 of § 28 the Republic of Estonia Education Act or a foreign qualification equal to the Bachelor's degree and who has at least two years' professional experience in the field of finance, law, management, debt counselling or accounting or who has acquired officially recognised Master's degree or a qualification equal thereto within the meaning of subsection 2^2 of § 28 the Republic of Estonia Education Act or a foreign qualification equal to the Master's degree;
2) is honest and of high moral character;
3) has oral and written proficiency in Estonian;
4) has passed the examination provided in § 59 of this Act;
5) has undergone the initial training provided in § 60 of this Act.

(3) Persons who have acquired foreign professional qualifications may also be entered in the list of trusted practitioners if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided in subsection 2 of § 7 of the Recognition of Foreign Professional Qualifications Act is the Ministry of Justice.

(4) In order to be entered in the list of trusted practitioners, a person submits a request to the management board of the Bankruptcy and Reorganisation Section of the Chamber within one year after passing the examination and completing the initial training programme. The management board of the Bankruptcy and Reorganisation Section of the Chamber decides to grant or deny the request within one month as of the date of receipt of the request by making a corresponding written decision. A copy of the decision is sent to the person. The reasons for denial of a request must be provided.

(5) The following persons are not entered in the list of trusted practitioners:
1) a person with a criminal record for an intentionally committed criminal offence;
2) a person who has been removed from the position of judge, notary, prosecutor or enforcement agent or disbarred or expelled from the board of auditors or has been deprived of the profession of sworn translator on the basis of clause 3 of subsection 3 of § 28 of the Sworn Translators Act or has been deprived of the qualification of patent agent on the basis of clause 1 or 2 of subsection 1 of § 20 of the Patent Agents Act during the preceding ten years or who is subject to prohibition on acting as a trustee in bankruptcy;
3) a person who has been released from public service for a disciplinary offence during the preceding five years;
4) a person who is bankrupt;
5) a person with regard to whom a prohibition on business applies or who has been deprived by a court judgment of the right to operate as an undertaking;
6) a person who has been excluded from the Chamber due to commission of a disciplinary offence in the preceding seven years or who has been deprived of the right to act as a trusted practitioner.

§ 59. Organisation of examinations for trusted practitioners and examination fee

(1) The specialist knowledge of an examinee and the suitability of his or her personal characteristics are tested at an examination for trusted practitioners. Examinations are conducted by the Methodology Committee of the Chamber. An examination consists of a test of specialist knowledge and an interview. Interviews are conducted with the examinees who have passed the test of specialist knowledge.

(2) The procedure and conditions for conducting examinations for trusted practitioners are established by a regulation of the minister in charge of the policy sector.

(3) The areas of the test of specialist knowledge of the examination for trusted practitioners and the conditions and procedure for grading the examination are established by a regulation of the minister in charge of the policy sector.

(4) An examinee must pay a fee of 127 euros to the Chamber before taking an examination or repeated examination for trusted practitioners. The specified amount also includes the compiling of the initial training programme and the verification of its completion. Where a person is released from taking an exam, but must complete the initial training programme, he or she must pay the Chamber one-half of the examination fee before the compiling of the programme. In justified cases, the Chamber may reduce the rate of the examination fee or release a person from payment of the fee.

(5) Trustees in bankruptcy and sworn advocates and persons who, for at least three years, have acted as a trustee in bankruptcy, sworn advocate, judge or prosecutor, except for assistant procurator, or enforcement agent, whose

level of education complies with clause 1 of subsection 1 of § 47 of the Courts Act and who wish to become a trusted practitioner within five years after acting as a trustee in bankruptcy, sworn advocate, judge, prosecutor or enforcement agent need not take an examination for trusted practitioners in order to be granted the right to act as a trusted practitioner and the initial training programme specified in subsection 1 of § 60 of this Act is compiled to them promptly.

§ 60. Initial training

(1) The Methodology Committee compiles an individual initial training programme to a person after the completion of an examination for trusted practitioners. The initial training programme is compiled such that its completion does not hinder working in the principal job.

(2) The procedure and conditions for compiling the initial training programme and verifying completion of the programme are established by a regulation of the minister in charge of the policy sector.

§ 61. In-service training

(1) Performance of the obligation to undergo in-service training is verified by the Methodology Committee once every five years (hereinafter the *evaluation period*).

(2) The requirements for and the volume of in-service training are established by a regulation of the minister in charge of the policy sector.

(3) At least two months before the end of an evaluation period, the Methodology Committee sends a person a notice concerning the end of the evaluation period and explains which data and by which due date must be submitted about the performance of the obligation to undergo in-service training.

(4) A person who has acquired a Master's degree or Doctoral degree in law during the evaluation period need not complete in-service training in the period concerned. Sworn advocates and trustees in bankruptcy who complete in-service training either as a member of the Bankruptcy and Reorganisation Section of the Chamber or in the bar association need not complete in-service training either.

(5) Where a trusted practitioner has not completed in-service training in the required volume during the evaluation period or has not submitted data on completion of in-service training to the Methodology Committee by the set due date, the Methodology Committee refers the person to an examination. The examination must be taken within four months after being referred to an examination. Where a person fails to pass the examination, the person is referred to a repeated examination. A person is deemed not to have passed the examination in case of failure to appear at an examination without good reason.

(6) Where a trusted practitioner does not appear at an examination without good reason or does not pass an examination two times, the Chamber excludes him or her from the list of trusted practitioners.

§ 62. Suspension, termination and deprivation of right to act as trusted practitioner

(1) On the basis of a written request of a trusted practitioner, the management board of the Bankruptcy and Reorganisation Section of the Chamber may terminate or suspend his or her right to act as a trusted practitioner for up to three years. The management board of the Bankruptcy and Reorganisation Section of the Chamber reviews the request within one month after its receipt. The obligation to pay a fee for being in the list and the obligation to undergo in-service training do not apply to a trusted practitioner at the time when the right to act as a trusted practitioner is suspended.

(2) The management board of the Bankruptcy and Reorganisation Section of the Chamber excludes a person from the list of trusted practitioners:
1) if a circumstance specified in subsection 5 of § 58 of this Act exists with regard to him or her;
2) in the case provided in subsection 6 of § 61 of this Act;
3) if prohibition on acting as a trusted practitioner is imposed on him or her as a disciplinary penalty;
4) if he or she fails to pay the fee for being in the list by the set due date without good reason and regardless of a warning given by the management board of the Bankruptcy and Reorganisation Section.

(3) The management board of the Bankruptcy and Reorganisation Section of the Chamber makes a written decision on exclusion from the list of trusted practitioners which is served on the trusted practitioner who is excluded from the list. The decision must be reasoned and include the procedure for contesting the decision.

(4) Where a person is being excluded from the list of trusted practitioners, he or she loses the right to act as a trusted practitioner.

§ 63. List of trusted practitioners

(1) After satisfying the request specified in subsection 4 of § 58 of this Act, the management board of the Bankruptcy and Reorganisation Section of the Chamber enters the details of the person in the list of trusted practitioners.

(2) The following is entered in the list with regard to a trusted practitioner:
1) name;
2) contact details;
3) date of grant of the right to act as a trusted practitioner;
4) information concerning the education of the trusted practitioner;
5) time and basis for the suspension or deprivation of the right to act as a trusted practitioner;
6) details of the professional payment account.

(3) The list is maintained by the Chamber. The list is made available to the public on the website of the Chamber.

(4) A trusted practitioner entered in the list must ensure the correctness of the information submitted.

§ 64. Fee for being in list

(1) A trusted practitioner pays the Chamber a fee for being in the list which is received in the part-budget of the Bankruptcy and Reorganisation Section of the Chamber.

(2) The fee is established in a fixed monthly amount.

(3) The amount of the fee is established by a regulation of the minister in charge of the policy sector.

§ 65. Liability of trusted practitioner

(1) A trusted practitioner is liable for the damage wrongfully caused to a debtor or creditors through violation of the obligations of the trusted practitioner.

(2) The limitation period for a claim for compensation for damage arising from violation of the obligations of a trusted practitioner is three years as of the date when the victim became aware of the damage and the circumstances on which the liability of the trusted practitioner is based, but not more than three years as of the release of the trusted practitioner.

Subchapter 3
Professional Payment Account of Trusted Practitioner

§ 66. Opening and closing of professional payment account

(1) A trusted practitioner is required to open at least one professional payment account in his or her name with a credit institution operating in Estonia or an Estonian branch of a foreign credit institution no later than on the next working day after being added to the list of trusted practitioners.

(2) Upon opening a payment account, a trusted practitioner is required to indicate in the additional terms and conditions of the agreement on opening the account that:
1) the payment account is opened for professional activities of the trusted practitioner and the amounts received in the account do not belong to the trusted practitioner;
2) the payment account may be used only in the proceedings for the release from obligations to keep the income of the debtor which is transferred to the trusted practitioner and to make payments to creditors;
3) no interest is accrued on the professional payment account.

(3) Where a court appoints a new trusted practitioner on the basis of subsection 4 of § 55 of this Act, the released trusted practitioner must transfer to the new trusted practitioner the amounts relating to the debtor that have been transferred to the professional payment account of the released trusted practitioner.

(4) Where a trusted practitioner is excluded from the list of trusted practitioners, he or she transfers the professional payment account to another trusted practitioner or the account is closed no later than on the day of his or her exclusion. In the event of closing the account, the trusted practitioner must transfer to the new trusted practitioner or, where justified, return to the debtor the amounts relating to the debtor which had been transferred to the payment account being closed.

§ 67. Use of professional payment account

(1) A professional payment account may be used only in the proceedings for the release from obligations to keep the income which is transferred by the debtor to the trusted practitioner and to make payments to creditors.

(2) Money received in the professional payment account may not be used by a trusted practitioner for bearing the maintenance costs of the office or for any other purposes except for satisfying the claims of creditors. In accordance with the provisions of subsection 6 of § 54 of this Act, a trusted practitioner withholds his or her remuneration and the necessary expenses from the amounts received in the payment account.

(3) A trusted practitioner maintains separate records of money in the professional payment account, in particular of money that any creditors or the debtor have failed to accept.

Chapter 6
Implementing Provisions

Subchapter 1
Transitional Provisions

§ 68. Application of Act

(1) This Act applies to proceedings initiated on the basis of insolvency petitions submitted after entry into force of this Act.

(2) The version of the Bankruptcy Act or the Debt Restructuring and Debt Protection Act in force until 30 June 2022 applies to the proceedings commenced on the basis of bankruptcy petitions, petitions for the release from obligations and debt restructuring petitions submitted before entry into force of this Act.

§ 69. Implementation of first sentence of subsection 3 of § 15 and subsection 1 of § 58

(1) The first sentence of subsection 3 of § 15 and subsection 1 of § 58 of this Act are implemented as of 1 July 2024.

(2) Until 30 June 2024, a person who is not in the list of trusted practitioners may also be appointed as a trusted practitioner by the court, but in such case the court must evaluate that the person has the necessary specialist knowledge for performing his or her duties, whereas the person may also have acquired the appropriate training, qualifications and specialist knowledge while practicing in their profession.

§ 70. Implementation of clause 4 of subsection 2 of § 58 and § 59

Clause 4 of subsection 2 of § 58 and § 59 of this Act are implemented as of 1 July 2026. Until 30 June 2026, a person is referred, based on clause 5 of subsection 2 of § 58 and § 60, to initial training without having passed an examination and the initial training programme is compiled without considering the examination result.

Subchapter 2
Amendment and Repeal of Acts

§ 71.–§ 86.[The provisions on amendment of other Acts have been omitted from the translation.]

Subchapter 3
Entry into Force of Act

§ 87. Entry into force of Act

This Act enters into force on 1 July 2022.

[1]Directive (EU) 2019/1023 of the European Parliament and of the Council on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (OJ L 172, 26.6.2019, p. 18–55).

Jüri Ratas
President of the Riigikogu