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Bankruptcy Act

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28.10.2010	RT I, 12.11.2010, 1	15.11.2010
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17.02.2011	RT I, 14.03.2011, 3	24.03.2011
09.06.2011	RT I, 29.06.2011, 1	30.06.2011
05.12.2012	RT I, 21.12.2012, 1	01.03.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, partially 23.03.2014 and 01.01.2016
16.04.2014	RT I, 09.05.2014, 2	19.05.2014

Chapter 1
GENERAL PROVISIONS

§ 1. Definition of bankruptcy

(1) Bankruptcy means the insolvency of a debtor declared by a court ruling.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) A debtor is insolvent if the debtor is unable to satisfy the claims of the creditors and such inability, due to the debtor's financial situation, is not temporary.

(3) A debtor who is a legal person is insolvent also if the assets of the debtor are insufficient for covering the obligations thereof and, due to the debtor's financial situation, such insufficiency is not temporary.

§ 2. Objectives of bankruptcy procedure

In a bankruptcy procedure, the claims of the creditors are satisfied out of the assets of the debtor pursuant to the procedure prescribed in this Act by transferring the assets of the debtor or rehabilitating the undertaking thereof. A debtor who is a natural person is given the opportunity to be released from his or her obligations through bankruptcy proceedings pursuant to the procedure prescribed in this Act. In the course of bankruptcy proceedings the cause of the insolvency of the debtor shall be ascertained.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 3. Bankruptcy procedure

(1) Bankruptcy proceedings are effected as judicial and extra-judicial proceedings.

(2) The provisions of the Code of Civil Procedure apply to bankruptcy procedure unless otherwise provided by this Act. Disputes over claims, including over acceptance of claims and recovery of assets, and contestation of the decisions of the general meeting of creditors take place in actions. The appointment of an interim trustee, the declaration of bankruptcy and other matters relating to bankruptcy proceedings shall be adjudicated in proceedings on petition unless law provides that they shall be adjudicated by way of actions.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(3) A court hearing a bankruptcy matter shall, at its own initiative, take measures to ascertain the facts relevant to the bankruptcy proceedings and organise collection of the evidence necessary for the ascertaining of the facts.

(4) In the cases provided for in this Act, the acts provided for in the Code of Enforcement Procedure shall be performed by an interim trustee or trustee who has the rights and obligations of a bailiff.

§ 4. Competence and jurisdiction of courts

(1) The hearing of bankruptcy matters is within the competence of county courts.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(2) Bankruptcy petitions shall be filed with a court pursuant to the general jurisdiction applicable to the debtor. It is presumed that the seat indicated in the register one year before filing of a bankruptcy petition is the seat of the debtor unless it is proved that the seat of the debtor is elsewhere.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) If several different bankruptcy petitions are filed with regard to one debtor, the petitions shall be joined for one procedure and heard by the court with whom the first bankruptcy petition is filed.

(4) If in connection with bankruptcy proceedings concerning a debtor who is a legal person declaration of bankruptcy is also requested with regard to a partner or member who is liable for the obligations of the legal person with his or her assets, the bankruptcy petition may be filed also with the court hearing the bankruptcy petition filed against the legal person.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

§ 4^1. Entry into force of rulings

A ruling by which bankruptcy is declared is effective and subject to execution as of making the ruling public. A ruling by which a bankruptcy petition is dismissed as well as a ruling by which a petition shall not be heard or the proceedings shall be terminated is effective and subject to execution as of entry into force of the ruling.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

§ 5. Appeals against rulings

(1) An appeal may be filed against a court ruling made in bankruptcy proceedings in the cases prescribed by this Act.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Appeals may be filed against a circuit court ruling on an appeal against a ruling only if this is prescribed by this Act.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(3) Filing of an appeal against a ruling shall not suspend compliance with the ruling unless otherwise provided by law.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

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

[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

§ 6. Specifications concerning sending of notices and delivery of procedural documents

(1) If a notice or procedural document is to be delivered by means of public delivery, the document is deemed to be delivered within five days as of its publication in the official publication *Ametlikud Teadaanded*.

(2) A court hearing a bankruptcy matter may assign the trustee with the duty of sending notices or delivering procedural documents.

(3) A court may deem a procedural document to have been delivered after five days as of its posting at the address of the recipient even if the parcel is returned. A court may set a longer term for deeming a document to have been delivered.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 7. Publication of notices

(1) If this Act prescribes publication of a notice or procedural document, the notice or procedural document shall be published in the official publication *Ametlikud Teadaanded*.

(2) A notice or procedural document may be published as an extract.

(3) A court hearing a bankruptcy matter may publish a notice or procedural document several times. A repeated notice shall indicate the date of the publication of the first notice.

§ 8. Bankrupt and creditor in bankruptcy proceedings

(1) A bankrupt (debtor) is a natural or legal person with respect to whom a court has declared bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) Any natural or legal person may be bankrupt unless otherwise provided by law. The state or a local government cannot be bankrupt.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A creditor in bankruptcy proceedings (creditor) is a person who has a proprietary claim against the debtor which has arisen before the declaration of the bankruptcy.

Chapter 2
APPOINTMENT OF INTERIM TRUSTEE AND DECLARATION OF BANKRUPTCY

[RT I 2009, 68, 463 - entry into force 01.01.2010]

Division 1
Appointment of Interim Trustee

[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 9. Bankruptcy petitioner

(1) A bankruptcy petition may be filed by the debtor or a creditor.

(2) In the event of the death of a debtor, a bankruptcy petition with respect to the debtor's property may also be filed by a successor of the debtor, the executor of the will of the debtor or the administrator of the estate of the debtor. In such case, the provisions concerning bankruptcy petitions of debtors apply to the bankruptcy petition as appropriate.

(3) In the cases provided by law, persons not specified in subsection (1) or (2) of this section may also file bankruptcy petitions. In such case, the provisions concerning creditors apply to the persons as appropriate unless otherwise provided by law.

§ 10. Bankruptcy petition of creditor

(1) The bankruptcy petition of a creditor shall substantiate the debtor's insolvency and prove the existence of a claim.

(2) The creditor shall substantiate the insolvency of the debtor by relying, inter alia, on at least one of the following circumstances:
1) the debtor has failed to perform an obligation within thirty days after the obligation has fallen due and the creditor has cautioned the debtor in writing of the creditor's intention to file a bankruptcy petition (bankruptcy caution) and the debtor has thereafter failed to perform the obligation within ten days;
2) it has not been possible within a period of three months to satisfy a claim in execution proceedings conducted with respect to the debtor due to lack of assets or it has become evident in the execution proceedings that the assets of the debtor are insufficient for performing all the obligations thereof;
3) the debtor has destroyed, hidden or squandered the debtor's property or made grave errors in management as a result of which the debtor has become insolvent, or has intentionally caused the insolvency of the debtor in any other manner;
4) the debtor has notified the creditor, the court or the public of the inability of the debtor to perform the obligations thereof;
5) the debtor has left Estonia in order to evade performance of the obligations thereof or hides with the same purpose.

(3) A bankruptcy petition may be filed under the circumstances specified in clause (2) 1) of this section by a creditor whose claim has fallen due. A creditor may file a bankruptcy petition under the circumstances specified in clauses (2) 2)–5) of this section regardless of whether the claim of the creditor has fallen due.

(3^1) A person who wishes to file a bankruptcy petition with respect to estate shall file a bankruptcy caution with the successor, executor of the will or administrator of the estate.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) The petitioning creditor shall file proof of the amount and basis of and the term for satisfaction of the claim of the creditor.

(5) If a court decision or arbitral award concerning a claim has entered into force, the creditor need not file any other proof concerning the claim.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) A creditor who files a bankruptcy petition although the creditor knows or should know that there is no basis for filing the petition shall compensate the debtor for the damage arising from the petition.

§ 11. Deposit for remuneration and expenses of interim trustee

(1) A court may, by a ruling, require a petitioning creditor to pay an amount of money specified by the court into court in order to cover the remuneration and expenses of the interim trustee if there is reason to presume that the bankruptcy estate is not sufficient to cover the expenses. The petitioning creditor may file an appeal against such ruling.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) The amount paid into court shall be returned to the person who has made the payment in accordance with the provisions of clauses 146 (1) 4) and 150 (1) 6) of this Act.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

§ 12. Delivery of creditor's bankruptcy petition to debtor

(1) A court with whom a creditor files a bankruptcy petition shall organise the delivery of the petition to the debtor.

(2) A notice on the delivery of a bankruptcy petition shall set out that the debtor has the right to file an objection with regard to the creditor's bankruptcy petition until the preliminary hearing.

§ 13. Debtor's bankruptcy petition and list of debts

(1) A debtor shall substantiate the insolvency thereof in the bankruptcy petition.

(2) A debtor shall substantiate the insolvency thereof by annexing an explanation concerning the cause of the insolvency and a list of the debts to the bankruptcy petition. The list of the debts shall set out the names and seats or residences of the creditors of the debtor, the claims of the creditors and information concerning the assets of the debtor. The debtor shall sign the explanation and the list of the debts.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A debtor's obligation to file a bankruptcy petition may be provided by law.

(4) Any member of the management board or the management body substituting for the management board of a debtor who is a legal person may file a bankruptcy petition on behalf of the debtor even if the member does not have the right to represent the legal person alone. A partner in a general partnership or a general partner in a limited partnership may file a bankruptcy petition even if the partner or general partner does not have the right to represent the partnership or the right to represent the partnership alone.

§ 14. Refusal to accept bankruptcy petition

(1) A court refuses, by a ruling, to accept a bankruptcy petition if:
1) it is not evident from the bankruptcy petition of the creditor that the petitioner has a claim against the debtor;
2) the bankruptcy petition of the creditor does not substantiate the insolvency of the debtor;
3) other bases provided for in the Code of Civil Procedure exist;
4) the bankruptcy petition of the creditor is based on a claim to which a reorganisation plan or a debt restructuring plan applies.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(2) An appeal may be filed against a ruling by which acceptance of a bankruptcy petition is refused. Appeals may be filed against the circuit court ruling on the appeal against the ruling.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 15. Appointment of interim trustee

(1) After accepting a bankruptcy petition, the court shall decide on the appointment of an interim trustee within ten days and make a ruling on the decision. If appointment of an interim trustee must be decided in a preliminary hearing, the court shall decide on the time of the hearing within ten days after the receipt of the bankruptcy petition and shall deliver the summonses. In such case the court shall decide on the appointment of an interim trustee within 20 days after the receipt of the bankruptcy petition.

(2) If a debtor who is a natural person submits a bankruptcy petition, the court may refuse to appoint an interim trustee taking into account the financial situation of the debtor and may declare bankruptcy within 10 days after the receipt of the bankruptcy petition.

(3) A court refuses to appoint an interim trustee on the basis of a bankruptcy petition of a creditor if:
1) the debtor objects to the claim on a reasoned basis and the court finds that the dispute over the claim must be adjudicated outside bankruptcy proceedings;
2) the claim is entirely secured by a pledge;
3) the total amount of the claims which are the basis for the bankruptcy petition of the creditor does not exceed 12,500 euros in the case of a public limited company, 2500 euros in the case of a private limited company, general partnership or limited partnership and other legal persons or 1000 euros in the case of a natural person; except if unsuccessful execution proceedings have been conducted with respect to the abovementioned claims within one year before filing of the bankruptcy petition;
[RT I 2010, 22, 108 - entry into force 01.01.2011]
4) the creditor has failed to substantiate the bankruptcy petition sufficiently or prove the existence of the claim;
5) the creditor has failed to pay the amount of money specified in § 11 of this Act although the court has required payment of the amount before the appointment of an interim trustee;
6) the debtor or a third person has, before the appointment of an interim trustee, performed the obligation on which the bankruptcy petition is based or provided sufficient security for the performance of the obligation;
7) other bases provided by law exist.

(4) If a reorganisation application has been submitted, the court shall postpone making a decision concerning the appointment of an interim trustee until a decision is made on the approval of the reorganisation plan.

(5) A bankruptcy petitioner may file an appeal against the ruling by which appointment of an interim trustee is refused.

(6) If a court refuses to appoint an interim trustee on the basis of a bankruptcy petition of a creditor, the procedural expenses relating to the hearing of the petition shall be borne by the petitioner.

(7) If the court does not appoint an interim trustee, the proceedings shall not be conducted any further and the proceedings terminate.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 16. Preliminary hearing

(1) If a bankruptcy petition is filed by a creditor, the court shall hold a preliminary hearing in order to decide on the appointment of an interim trustee, and the bankruptcy petitioner and the debtor shall be summoned to the hearing. A court may adjudicate a matter without holding a preliminary hearing if it is apparent that the circumstances specified in subsection 15 (3) of this Act are complied with.

(2) The debtor and the creditor shall be notified of the time and place of the preliminary hearing and the consequences of failure to appear at the hearing.

(3) If a petitioning creditor fails to appear at a preliminary hearing, the court shall refuse to appoint an interim trustee.

(4) If a debtor fails to appear at a preliminary hearing, the court may decide on appointment of an interim trustee in the absence of the debtor.

(5) If a bankruptcy petition is submitted by a member of the management board or a body substituting for the management board on behalf of a debtor who is a legal person, but the legal person has several members of the management board or a body substituting for the management board and the court deems it necessary to hold a preliminary hearing, the court may summon also the other members of the management board or a body substituting for the management board to the hearing. Their absence shall not hinder making a decision concerning appointment of an interim trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 17. Court activities in preparation of bankruptcy matter

(1) Upon appointment of an interim trustee, a court shall schedule the time of the court session for the hearing of the bankruptcy petition.

(2) A court may publish a notice concerning the time and place of the hearing of a bankruptcy petition in the official publication *Ametlikud Teadaanded*.

(3) Upon appointment of an interim trustee, a court shall stay compulsory execution with respect to the debtor's property.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 18. Measures for securing bankruptcy petitions

(1) In order to secure a bankruptcy petition, a court may apply all the measures prescribed for securing an action, prohibit the debtor from departing from his or her residence pursuant to the provisions of § 88 of this Act or impose a fine, apply compelled attendance or arrest with regard to the debtor pursuant to the provisions of § 89 of this Act.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) The measures for securing an action which were applied before deciding on the appointment of an interim trustee remain valid if an interim trustee is appointed unless the court decides otherwise.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) An interim trustee shall execute a ruling on the securing of a bankruptcy petition pursuant to the procedure provided for in the Code of Enforcement Procedure.

(4) A person whose rights are restricted by a ruling by which a bankruptcy petition is secured may file an appeal against such ruling.

(5) The application of measures for securing a bankruptcy petition does not affect the validity of disposition for the exercise of rights or performance of obligations arising from a financial collateral arrangement specified in § 314^1 of the Law of Property Act, or the netting performed through a payment system specified in subsection 87 (2) of the Credit Institutions Act and through a securities settlement system or a linked system specified in subsection 213 (1) or 213^1(1) of the Securities Market Act.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

§ 19. Application of prohibition on departing from residence to debtors who are legal persons

(1) If a debtor is a legal person, a prohibition on departing from the residence may, in order to secure a bankruptcy petition, be applied with respect to the members of the management body, liquidators, partners in a general partnership, general partners in a limited partnership, shareholders with a holding of at least one-tenth of the shares, procurators, or persons responsible for accounting.

(2) In the case of a debtor who is a legal person, a member of the management body, liquidator, a general partner with the right to manage the general partnership or limited partnership, procurator or a person responsible for accounting may be detained and arrested in order to secure a bankruptcy petition.

(3) A fine may be imposed or a prohibition on departing from residence may also be applied with respect to a member of the management body, a liquidator, procurator or a person responsible for the accounting of a debtor who is a legal person, or he or she may be arrested, if he or she has been released from his or her duties within one year before appointment of an interim trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 20. Restraint on disposition

(1) A court may prohibit a debtor from disposing of assets without the consent of the interim trustee. A restraint on disposition may be applied with regard to all or part of the assets.

(2) In the event of application of a restraint on disposition, subsections 36 (2)–(4) and (6) of this Act apply, respectively.

(3) If a restraint on disposition is applied, the court proceedings which have commenced before the application of the restraint and in which the debtor participates as the plaintiff or the defendant shall be suspended if the court proceedings concern the assets of the debtor which in the event of declaration of bankruptcy would be included in the bankruptcy estate. The court proceedings shall be suspended until the adjudication of the bankruptcy petition.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 21. Publication of restraint on disposition

(1) A ruling by which a restraint on disposition specified in subsection 20 (1) of this Act is applied shall be published in the official publication *Ametlikud Teadaanded*. The ruling shall be sent to the debtor and the interim trustee.

(2) If a debtor is entered in the commercial register or the non-profit associations and foundations register, a court shall immediately send a copy of the ruling specified in subsection (1) of this section to the registration department of the court of the seat or residence of the debtor.

(3) The provisions of §§ 40 and 41 of this Act, respectively, apply to the entry of a restraint on disposition in the land register, ship register or the Estonian Central Register of Securities.

(4) The provisions of subsections (1)–(3) of this section, respectively, apply also to cancellation of a restraint on disposition.

§ 22. Interim trustee in bankruptcy

(1) A court appoints an interim trustee in bankruptcy (interim trustee) taking into account the provisions of § 56 of this Act.

(2) An interim trustee shall:
1) determine the assets of the debtor, including the obligations thereof, and verify whether the debtor's assets are sufficient to cover the costs of the bankruptcy proceedings;
1^1) ascertain the execution proceedings concerning the assets of the debtor;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) assess the financial situation and solvency of the debtor and the prospect of continuation of the activities of the enterprise of the debtor and, if the debtor is a legal person, of the rehabilitation of the debtor;
3) ensure preservation of the debtor's assets;
4) give or refuse consent to the disposal of the debtor's assets if the court has prohibited the debtor from disposing of the assets thereof without the consent of the interim trustee;
4^1) prepare the trustee's file pursuant to the procedure established on the basis of subsection 55 (3^1) of this Act;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
4^2) notify the known creditors of the possibility to deposit money for covering the costs of bankruptcy proceedings pursuant to § 30 of this Act in the case specified in subsection 29 (1);
[RT I 2009, 68, 463 - entry into force 01.01.2010]
5) perform other duties which the court assigns to him or her during the bankruptcy proceedings.

(3) In order to perform the duties specified in subsection (2) of this section, an interim trustee has the right to:
1) obtain necessary information and documents from the debtor, especially those concerning the assets and obligations of the debtor;
2) have access to the plots of land in the possession of the debtor and the premises used for the business or professional activities of the debtor;
3) enter the dwelling of the debtor if he or she is a natural person;
4) obtain information and documents from the state and local government agencies, credit institutions, and other persons, necessary for determining the financial status of the debtor.

(4) If a debtor is an accounting entity, the debtor is required to submit the annual report for the previous financial year together with an overview of the financial situation, profit or loss and cash flows of the debtor as at the date of appointment of an interim trustee to the interim trustee at the request thereof. The report shall be submitted not later than five days before the court session where the bankruptcy petition is heard. The report and overview specified in this subsection shall be submitted to the court by the date determined by the court taking into account the terms specified in subsections 27 (1) and (2) of this Act.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) An interim trustee shall submit a written report on the performance of the duties specified in subsection (2) of this section and an opinion on the causes of the insolvency of the debtor to the court. The opinion submitted by the interim trustee shall set out whether the cause of the insolvency is an act with criminal elements, a grave error in management, or other circumstances.

(6) A debtor and the petitioning creditor may file appeals against appointment of an interim trustee if a person who does not comply with the requirements provided for in subsections 56 (1), (3) or (4) has been appointed interim trustee. If the court annuls the appointment of the person as an interim trustee, the court shall appoint a new interim trustee who shall continue performance of the duties of an interim trustee. This shall not affect the validity of the acts performed by or with respect of the former interim trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(7) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 23. Remuneration of interim trustee

(1) An interim trustee 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 incurred in the performance of his or her duties. The court determines the amount of the remuneration taking into consideration the volume and complexity of the duties of the interim trustee and his or her professional skills. The court shall verify whether the expenses incurred in the performance of the duties of the interim trustee were justified and shall approve the amount of the necessary and justified expenses.

(2) The amount of the remuneration shall be calculated on the basis of the time needed for the performance of the duties. An interim trustee shall submit information on working time and an application for reimbursement of the expenses together with a report specified in subsection 22 (5) of this Act to the court. A trustee shall indicate the amount, the cause or the basis and the time of the incurrence of expenses in the application for reimbursement of the expenses.

(3) The maximum hourly wage of an interim trustee is 96 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(4) If proceedings commenced on the basis of a petition of the debtor are terminated by abatement without declaration of bankruptcy and the assets of the debtor are insufficient to make the required payments, the court shall order the remuneration of an interim trustee payable and the expenses subject to reimbursement to be paid by the debtor but may order reimbursement thereof from the state funds. The amount of the remuneration and the expenses of an interim trustee reimbursed from state funds shall not exceed 397 euros (including the taxes prescribed by law, except social tax).
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(5) The court shall not order reimbursement of the remuneration and the expenses of an interim trustee from state funds if the debtor, a creditor or a third person has paid the amount ordered by the court to cover the remuneration of the interim trustee and the expenses subject to reimbursement into court.

(6) The court may order the remuneration of an interim trustee and the expenses subject to be reimbursed to be paid to the office through which the interim trustee operates.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(7) A debtor, the bankruptcy petitioner and the interim trustee may file an appeal against a court ruling on the remuneration of the interim trustee and reimbursement of his or her expenses.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 24. Liability of interim trustee

(1) An interim trustee shall be liable for the damage wrongfully caused to a debtor or creditor through violation of the obligations of the interim trustee.

(2) The limitation period for a claim filed against an interim trustee on the basis of subsection (1) of this section is three years as of the date of termination of the activities of the interim trustee.

§ 25. Participants in proceedings for hearing of bankruptcy petition, and summoning to court

(1) In the hearing of a bankruptcy petition by the court, the petitioning creditor and the debtor shall be the participants in the proceedings.

(2) A court shall summon the participants in the proceedings and the interim trustee to the court session in which the bankruptcy petition is heard.

§ 26. Consequences of failure of participant in proceedings to appear

(1) If a petitioning creditor fails to appear at the court session, the court may refuse to hear the bankruptcy petition.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If a debtor fails to appear at the court session, the court may hear the bankruptcy petition in the absence of the debtor or apply compelled attendance with regard to the debtor.

(3) Default judgments shall not be made in bankruptcy proceedings.

(4) Appeals may be filed against a ruling on refusal to hear a bankruptcy petition.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 27. Hearing of bankruptcy petition

(1) A court shall hear the bankruptcy petition of a debtor within ten days or, with good reason, within 30 days after appointment of an interim trustee.

(2) A court shall hear the bankruptcy petition of a creditor within 30 days or, with good reason, within two months after appointment of an interim trustee.

(3) Processing of a bankruptcy petition shall not be suspended.

(4) If a court, after appointment of an interim trustee, requires a creditor to pay the amount of money specified in § 11 of this Act but the creditor fails to do so, the court shall refuse to hear the bankruptcy petition.

(5) After hearing a bankruptcy petition, a court shall declare bankruptcy, dismiss the petition or terminate the proceedings by abatement on the basis specified in § 29 of this Act.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 28. Criminal offence and grave error in management

(1) If it becomes evident that the debtor has committed an act with criminal elements due to becoming insolvent, the trustee or the court shall give notification thereof to the prosecutor or the police for deciding on the commencement of criminal proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If it becomes evident in bankruptcy proceedings that the cause of the insolvency of the debtor is a grave error in management, the court shall indicate such error in the court decision. Intentional violation of the obligations of a debtor who is a natural person or of a member of a management body of a debtor who is a legal person or violation of such obligations through gross negligence is deemed to be a grave error in management.

§ 29. Abatement of bankruptcy proceedings without declaration of bankruptcy

(1) A court shall terminate proceedings by abatement by a ruling without declaring bankruptcy regardless of the insolvency of the debtor if the debtor's assets are insufficient for covering the costs of the bankruptcy proceedings and it is impossible to recover or reclaim the assets, as well as submit a claim against a member of a directing body.

(2) A court may terminate proceedings by abatement without declaring bankruptcy regardless of the insolvency of the debtor also if the assets of the debtor consist primarily in claims for recovery or claims against third persons and satisfaction of these claims is unlikely.

(3) A court shall not terminate proceedings by abatement on the basis provided for in subsection (1) or (2) of this section if the debtor, a creditor or a third person pays the amount ordered by the court for covering the costs of the bankruptcy proceedings into court.

(4) A court shall publish a notice concerning termination of proceedings by abatement in the official publication *Ametlikud Teadaanded*.

(5) If proceedings are terminated on the basis provided for in subsection (1) or (2) of this section, the interim trustee is required to submit to the Unemployment Insurance Fund the application provided for in the Unemployment Insurance Act for payment of compensation to employees of the debtor for the unpaid wages and holiday pay and the compensation which was not paid upon termination of employment contracts.

(6) A debtor and the petitioning creditor may file appeals against the ruling specified in subsection (1) or (2) of this section. Appeals may be filed against the circuit court ruling on the appeal against the ruling.

(7) If a creditor who has not filed a bankruptcy petition files an appeal against the ruling specified in subsection (1) or (2) of this section, the term for filing the appeal commences as of the publication of the notice specified in subsection (4) of this section. Only a creditor who has filed an appeal against a ruling of a county court may file an appeal against the circuit court ruling on the appeal against the ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(8) If bankruptcy proceedings of a debtor who is a legal person are terminated by abatement, the interim trustee shall liquidate the legal person within two months after the entry into force of the ruling on termination of the

proceedings without a liquidation proceeding. If, upon the abatement of bankruptcy proceedings, the debtor has any assets, first the remuneration of the interim trustee shall be paid and the necessary expenses shall be covered therefrom. At the request of an entitled person the court may extend the term specified in the first sentence of this subsection for up to six months. Upon the extension of the term the court shall determine an amount which must be paid by the person filing the petition for covering the remuneration of the interim trustee acting in the capacity of the liquidator and the liquidation expenses and which shall not exceed 396.25 euros.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

§ 30. Deposit for costs of bankruptcy proceedings

(1) If the debtor's assets are insufficient for covering the costs of the bankruptcy proceedings, the court shall, in order to avoid abatement of the proceedings, determine the amount payable into court for covering the costs of the bankruptcy proceedings and the term for the payment thereof.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A court shall notify of the possibility to deposit money for covering the costs of the bankruptcy proceedings in the official publication *Ametlikud Teadaanded*.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) In the case of a debtor who is a legal person, the person who makes the payment specified in subsection (1) of this section has the right to claim reimbursement of the amount paid into court from persons who failed to submit the bankruptcy petition on time through violation of their obligations. The person against whom a claim is filed shall, in the event of a dispute, prove that the person has not violated the obligations thereof by not filing the bankruptcy petition on time.

(4) The amount paid into court shall be returned to the person who has made the payment in accordance with the provisions of clauses 146 (1) 4) and 150 (1) 6) of this Act.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

Division 2
Declaration of Bankruptcy and
Consequences of Declaration of Bankruptcy

§ 31. Declaration of bankruptcy

(1) A court shall declare bankruptcy if the debtor is insolvent.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A court shall not declare bankruptcy regardless of the insolvency of the debtor who is a natural person if a basis for refusal to appoint an interim trustee specified in subsection 15 (3) of his Act exists. However, the court may declare bankruptcy if a basis for refusal to appoint an interim trustee specified in clause 15 (3) 6) of this Act exists.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) If a bankruptcy petition is filed by a debtor, the court shall declare bankruptcy also if insolvency is likely to occur in the future.

(4) If a debtor submits a bankruptcy petition, the debtor is presumed to be insolvent.

(5) A court shall declare bankruptcy by a ruling (bankruptcy ruling). A bankruptcy ruling shall set out the time of declaration of bankruptcy. Bankruptcy proceedings commence by the declaration of bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) If bankruptcy is declared, the court shall decide on the time and place of the first general meeting of creditors, appointment of a trustee in bankruptcy (trustee), and application of measures for securing actions. Measures for securing actions which were applied before the declaration of bankruptcy remain in force unless the court decides otherwise.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(7) A bankruptcy ruling shall be subject to immediate execution. Execution of a bankruptcy ruling shall not be suspended or postponed, and the manner or procedure provided by law for the execution of the bankruptcy ruling shall not be changed.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(8) The annulment by a higher court of a bankruptcy ruling shall not affect the validity of the legal acts performed by or with respect of the interim trustee.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 32. Appeal against bankruptcy ruling

A debtor and the petitioning creditor may file appeals against the bankruptcy ruling within 15 days after publication of the bankruptcy notice. A debtor and the petitioning creditor may file appeals with the Supreme Court against the circuit court ruling on the appeal against the ruling. The trustee shall not file an appeal against the ruling on behalf of the debtor or represent the debtor in the hearing of an appeal against the ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 33. Bankruptcy notice

(1) A court shall immediately publish a notice concerning a bankruptcy ruling in the official publication *Ametlikud Teadaanded*(bankruptcy notice). The notice shall be repeated if necessary. A repeated notice shall indicate the date of the publication of the first notice.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A bankruptcy notice shall set out the name of the court which declared the bankruptcy, the date and time of the order, information concerning the debtor and the trustee, a proposal for the creditors to file their claims, the term for filing the claims, and the time and place of the first general meeting of creditors. A bankruptcy notice shall set out the consequences of failure to file a claim within the specified term.

(3) A bankruptcy notice shall set out that performance of obligations to the benefit of the debtor shall be accepted only by the trustee.

(4) If a higher court annuls a ruling by which declaration of bankruptcy was refused and issues a bankruptcy ruling, the higher court shall publish the bankruptcy notice. The higher court shall publish a notice concerning any other ruling in the publication *Avalikud Teadaanded*.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) If bankruptcy is declared on the basis of the Council regulation (EC) No 1346/2000 (OJ L 160 30/60/2000 pp. 1-13) with regard to a debtor who has been entered in the commercial register or the non-profit associations and foundations register in Estonia or has a place of establishment in Estonia, the bankruptcy notice shall be published by the trustee in bankruptcy or a competent authority of the state which initiated the bankruptcy proceedings. In addition to the information provided for in subsection (2) of this section, the notice shall set out whether the bankruptcy proceedings were initiated on the basis of Article 3 (1) or (2) of the regulation, and the state whose law applies to the bankruptcy proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 34. Notification of creditors

(1) A trustee shall give written notice of the bankruptcy order and the time and place of the first general meeting of creditors to all creditors known to him or her. The notice shall set out the consequences of failure to submit claims within the specified term. If the trustee is aware of any persons who have obligations to the debtor, the trustee shall send a notice concerning declaration of the bankruptcy of the debtor also to such persons.

(2) If the total number of the persons specified in subsection (1) of this section exceeds 50, it is sufficient to publish the bankruptcy notice.

(3) Regardless of the number of the creditors, the trustee shall notify the creditors who pursuant to the land register, ship register, commercial pledge register or the Estonian Central Register of Securities may have financial claims against the debtor, and other known creditors holding rights of security with regard to the debtor's assets in the manner provided for in subsection (1) of this section. The provisions of the previous sentence apply also to the creditors whose habitual place of stay, residence or seat is located in another Member State of the European Union.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 35. Consequences of declaration of bankruptcy

(1) By declaration of bankruptcy:
1) the debtor's assets become the bankruptcy estate;
2) the right to administer the debtor's assets and the right to be a participant in court proceedings in lieu of the debtor with regard to a dispute relating to the bankruptcy estate or the assets which may be included in the bankruptcy estate is transferred to the trustee;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
3) if the debtor is a natural person, he or she is deprived of the right to enter into transactions relating to the bankruptcy estate;
4) if the debtor is a legal person, the debtor is deprived of the right to enter into any transactions;
5) the debtor's other rights are restricted pursuant to the procedure prescribed by this Act;

6) calculation of interest and fines for delay on claims against the debtor shall be terminated;
6[1]) the term for challenging of the administrative act against the debtor is suspended;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
7) other consequences prescribed by this Act follow.

(2) A debtor is required to submit an inventory of the assets, including obligations, of the debtor as at the date of declaration of bankruptcy to the trustee.

§ 36. Transfer of management authority and right of disposal

(1) Upon declaration bankruptcy, the debtor's right to manage and dispose of the bankruptcy estate transfers to the trustee unless otherwise provided by law.

(2) Dispositions effected by the debtor with regard to objects belonging to the bankruptcy estate after the declaration of bankruptcy are void. The assets transferred by the other party on the basis of the disposition shall be returned to the party if the assets have been retained in the bankruptcy estate or compensated for if the bankruptcy estate has increased as a result of the transfer.

(3) Subsection (2) of this section does not apply to acquisition in good faith on the basis of subsection 56[1](2) of the Law of Property Act, subsection 7 (1) of the Law of Maritime Property Act or subsection 9 (2) of the Estonian Central Register of Securities Act.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If a debtor disposes of an object on the date of the declaration of bankruptcy, the disposition is presumed to have been effected after the declaration of bankruptcy. Establishment of financial collateral provided for in § 314[1]of the Law of Property Act after the declaration of bankruptcy is valid if carried out on the date of declaration of bankruptcy and the counterparty to the financial collateral arrangement proves that the counterparty was not aware nor should have been aware of appointment of an interim trustee. The declaration of bankruptcy shall not affect the right granted to the beneficiary of the financial collateral to dispose of the objects of the financial collateral or to satisfy the claim secured by the financial collateral on account of the financial collateral in the manner agreed on in the financial collateral arrangement.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5) If before declaration of bankruptcy the debtor has disposed of the debtor's future claims, the disposition becomes void upon declaration of bankruptcy as regards claims which arise after the declaration of bankruptcy.

(6) A debtor who is a natural person may dispose of the bankruptcy estate with the consent of the trustee. Dispositions effected without the consent of the trustee are void.
[RT I 2004, 37, 255 - entry into force 01.05.2004]

§ 37. Satisfaction of claims included in bankruptcy estate

(1) After declaration of bankruptcy, performance of the obligations which are included in the bankruptcy estate and are due to the debtor shall be accepted only by the trustee. If an obligation is performed to the benefit of the debtor, the obligation is deemed to be performed only if the assets transferred in performance of the obligation have been retained in the bankruptcy estate or the bankruptcy estate has increased as a result of the transfer.

(2) If an obligation is performed to the benefit of a debtor before publication of the bankruptcy notice, the obligation is deemed to be performed if the person who performed the obligation neither was nor should have been aware of the declaration of bankruptcy at the time of the performance.

§ 38. Use of name

After the bankruptcy of a debtor who is a legal person has been declared, the business or any other name of the debtor may be used only in combination with the word "pankrotis" [bankrupt].

§ 39. Notification of registrar

(1) If a debtor is entered in the business register or the non-profit associations and foundations register, the court which declares bankruptcy shall immediately forward copies of the decisions made by the court or a higher court on the basis of subsection 29 (1), § 31, subsection 68 (3), subsections 91 (2) and (3), 130 (2) and (7), 158 (4), 163 (3), 183 (1), 190 (1) and 192 (2) of this Act to the registration department of the court of the residence or seat of the debtor. An entry is made in the register immediately after a ruling is forwarded to the registration department.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If bankruptcy is declared on the basis of Article 3 (1) of the Council regulation (EC) No 1346/2000 on insolvency proceedings with regard to a debtor who has been entered in the commercial register or the non-profit associations and foundations register in Estonia, the trustee in bankruptcy or any other competent authority of the state which declared the bankruptcy is required to give notification of the declaration of bankruptcy.

[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 40. Notation in land register

(1) Notations shall be made in the land register concerning declaration of bankruptcy:
1) next to the entries concerning the immovables owned by the debtor according to the land register;
2) next to the entries concerning the limited real rights held by the debtor or the rights on such rights if it may be presumed that failure to make such notations would damage the interests of the creditors.

(2) A notation shall be made on the basis of the bankruptcy ruling. The ruling shall be forwarded to the registrar by the court. If bankruptcy is declared on the basis of Article 3 (1) of the Council regulation (EC) No 1346/2000, such application may be submitted also by any other competent authority of the state which declared the bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) If a trustee transfers an immovable or right specified in subsection (1) of this section in the course of the bankruptcy proceedings, the trustee shall submit an application for the deletion of the corresponding notation.

(4) The provisions of subsections (1)–(3) of this section apply also to ships entered in the ships register.

§ 41. Freezing of securities in Estonian Central Register of Securities

(1) Securities or securities accounts entered in the Estonian Central Register of Securities shall be frozen on the basis of a bankruptcy ruling. The application for freezing securities or a securities account entered in the Estonian Central Register of Securities shall be submitted by the trustee on the basis of the bankruptcy ruling. If bankruptcy is declared on the basis of Article 3 (1) of the Council regulation (EC) No 1346/2000, such application may be submitted also by any other competent authority of the state which declared the bankruptcy.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If a security specified in subsection (1) of this section is sold in the course of the bankruptcy proceedings, the trustee shall submit an application for the release of the security.

§ 42. Claims not yet due

As of the declaration of bankruptcy, all the claims of the creditors against the debtor are deemed to have fallen due unless otherwise provided by law.

§ 43. Court proceedings relating to bankruptcy proceedings

(1) If an action or any other petition relating to a bankruptcy estate filed by the debtor against another person is heard in court proceedings which began before the declaration of bankruptcy or if the debtor participates in court proceedings as a third party, the trustee may, in accordance with his or her duties, enter the proceedings in lieu of the debtor. If the trustee is aware of such proceedings but does not enter the proceedings, the debtor may continue as the plaintiff, petitioner or third party.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) If a proprietary claim against a debtor exists in court proceedings which began before the declaration of bankruptcy but a decision concerning the claim has not yet been made, the court shall discontinue the hearing of the claim in the proceedings concerning the action.

(3) A court shall reopen the proceedings specified in subsection (2) of this section on the basis of an application of the plaintiff if a higher court annuls the bankruptcy ruling and a ruling dismissing the bankruptcy petition has entered into force or if the bankruptcy proceedings are terminated by abatement after the declaration of bankruptcy.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) If a claim for the exclusion of an object from the bankruptcy estate has been filed against the debtor in court proceedings which began before the declaration of bankruptcy, the court shall hear the claim. In such case, the trustee in bankruptcy may enter the proceedings in lieu of the debtor. The trustee has the rights and obligations of the debtor as the defendant. If the trustee does not enter the proceeding, the proceedings may be continued at the request of the plaintiff.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) If a proprietary claim exists against a debtor in court proceedings where the decision made on the claim is subject to appeal, the appeal may be filed by the trustee on behalf of the debtor after the declaration of bankruptcy. The debtor may file the appeal with the consent of the trustee.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(6) A debtor is required to notify the court which declared the bankruptcy and the trustee of all the court proceedings where the debtor participates as a plaintiff or defendant or any other participant in the proceedings.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 44. Claims of creditors in bankruptcy proceedings

(1) After declaration of bankruptcy, the creditors in the bankruptcy proceedings may file their claims against the creditor only pursuant to the procedure provided for in this Act. The claims are satisfied pursuant to the procedure provided for in this Act.

(2) Claims in foreign currency shall be converted into the currency valid in Estonia on the basis of the exchange rate valid at the date of issue of the bankruptcy ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 45. Termination of seizure

Seizure applied with regard to a debtor's assets before the declaration of bankruptcy terminates with the declaration of bankruptcy.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 46. Performance of debtor's contractual obligations

(1) A trustee has the right to perform an unperformed obligation arising from a contract entered into by the debtor and require the other party to perform the obligations thereof, or abandon performance of an obligation arising from a contract entered into by the debtor, unless otherwise provided by law. The trustee shall not abandon performance of an obligation arising from a contract entered into by the debtor if the obligation is secured by a preliminary notation entered in the land register.

(2) If the other party makes a proposal to the trustee to exercise the choice specified in subsection (1) of this section, the trustee shall immediately but not later than within seven days give notice of whether he or she will or will not perform the debtor's obligation. If the trustee fails to give timely notice of performance of the obligation or abandoning of the performance, the trustee does not have the right to require performance of the contract from the other party before the trustee has performed the debtor's obligation.

(3) At the request of a trustee, the court may set a term other than that provided for in subsection (2) of this section for the trustee for exercising the choice. In such case, the term shall be set such as to leave reasonable time for the creditors to file claims before the first general meeting of creditors.

(4) If a trustee continues to perform an obligation of the debtor or gives notice that he or she intends to perform the obligation, the other party to the contract shall continue performance of the obligations thereof. In such case, the trustee loses the right to refuse performance of the debtor's obligation.

(5) If a trustee requires performance of a contract from the other party to the contract, the other party may require the trustee to secure performance of the obligation of the debtor. The other party may refuse to perform the obligation thereof, withdraw from the contract or cancel the contract until the trustee has secured performance of the debtor's obligation.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) The other party's claim against a debtor which has arisen from the performance of an obligation after the trustee has required performance of the obligation from the other party is a consolidated obligation.

(7) If a trustee abandons performance of an obligation of the debtor after the declaration of bankruptcy, the other party to the contract may file the claim arising from failure to perform the contract as a creditor in the bankruptcy proceedings.

§ 46^1. Performance of obligations arising from apartment ownership

(1) If the bankruptcy estate includes an apartment ownership, the trustee shall not refuse to pay the management costs of the community of apartment owners or apartment association which have fallen due after the declaration of bankruptcy.

(2) The claim specified in subsection (1) of this section is a consolidated obligation.
[RT I, 13.03.2014, 3 - entry into force 23.03.2014]

§ 47. Contract for divisible object

(1) If the object of a contractual obligation is divisible and the other party has partly performed the obligation thereof by the time of declaration of the bankruptcy, the party may require performance of the debtor's financial obligation corresponding to the performed part of the other party's obligation only as a creditor in the bankruptcy proceedings.

(2) If a trustee requires performance of the unperformed part of an obligation, the other party's claim against the debtor corresponding to such part is deemed to be a consolidated obligation.

§ 48. Performance of derivative transactions
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1) If a party to a derivative transaction is a person or organisation specified in subsection 314^1(1) or (2) of the Law of Property Act or clause 6 (2) 2) or 3) of the Securities Market Act, in the course of the usual economic activities of which performance at a specified date or during a specified term has been agreed on in a framework contract or other appropriate contract, and the date arrives or the term expires after the declaration of bankruptcy, the trustee or the counterparty to the contract shall not require performance of the obligation.

(2) For the purposes of subsection (1) of this section, derivative transaction is the acquisition of a derivative instrument in the meaning of subsection 2 (3) of the Securities Market Act over the counter or through a trading system or a derivative contract in the meaning of subsection 2 (10) of the Securities Market Act.

(3) In the case specified in subsection (1) of this section, only the claim arising from failure to perform an obligation shall be filed. The size of a claim arising from failure to perform an obligation is calculated as the difference between the price agreed on in the derivative transaction and the market price at the agreed point of time, but not later than on the second working day after the declaration of bankruptcy. The counterparty to the transaction may file a claim arising from failure to perform an obligation only as a creditor in the bankruptcy proceedings.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 49. Reservation of ownership

(1) If a debtor has sold a movable with reservation of ownership before declaration of bankruptcy and has transferred possession of the movable to the purchaser, the purchaser has the right to require performance of the sales contract. In such case, the trustee shall not abandon performance of the debtor's obligations arising from the sales contract.

(2) If a debtor has purchased a movable with reservation of ownership before declaration of bankruptcy and possession of the movable has transferred from the purchaser to the debtor, the trustee in bankruptcy may exercise the choice provided for in § 46 of this Act until the first general meeting of creditors. The trustee may exercise the choice provided for in § 46 of this Act also within five days after the first general meeting of creditors.

(3) A trustee shall exercise a choice pursuant to the procedure provided for in § 46 of this Act if the value of an object transferred with reservation of ownership may materially decrease within the time until the first general meeting of creditors and the creditor has notified the trustee of the possibility of such decrease.

§ 50. Debtor as lessor or commercial lessor

(1) The bankruptcy of a lessor or a commercial lessor shall not be the basis for termination of the lease contract unless the contract provides otherwise. If the lease contract provides for bankruptcy as a basis for termination of the contract, the trustee may cancel the contract within a term of one month or a shorter term of cancellation prescribed in the contract.

(2) The bankruptcy of the lessor of a dwelling shall not be the basis for termination of the lease contract.

(3) If the rent for an immovable or room has been paid to a debtor in advance before the declaration of bankruptcy, the lessee's or commercial lessee's obligation to pay rent is deemed to be performed only as regards the month of declaration of the bankruptcy. If bankruptcy is declared after the fifteenth day of the month, the lessee's obligation to pay rent is deemed to be performed also as regards the following month. With regard to the rest of the advance payment, the lessee may file a claim against unjust enrichment as a creditor in the bankruptcy proceedings.

(4) A lessor or a commercial lessor may set off a claim against unjust enrichment specified in subsection (3) of this section against the debtor's claim against the lessor.

§ 51. Debtor as lessee

(1) In the case of the bankruptcy of a lessee, the lessor or commercial lessor may terminate the lease contract only pursuant to the procedure provided for in § 319 of the Law of Obligations Act.

(2) The other party to a lease contract entered into by a debtor as the lessee shall not cancel the contract due to a delay in the payment of the rent after declaration of the bankruptcy of the debtor if the delay concerns payment of the rent owed before the filing of the bankruptcy petition.

(3) A contract for the lease of an immovable or room entered into by a debtor as the lessee may be cancelled by the trustee within a term of one month or a shorter term of cancellation prescribed in the contract.

(4) If a trustee cancels a contract pursuant to subsection (3) of this section, the other party may claim compensation for the damage arising from premature termination of the contract only as a creditor in the bankruptcy proceeding.

(5) If an immovable or room has not been transferred into the possession of a debtor by the time of the declaration of bankruptcy, both the trustee and the other party may withdraw from the contract. If the trustee withdraws from the contract, the other party may claim compensation for the damage arising from termination of the contract only as a creditor in the bankruptcy proceedings. If one of the parties makes a proposal to the other party to give notice of whether the other party intends to exercise the right of withdrawal, the other party may withdraw from the contract within fourteen days.

§ 52. Leasing contract

The provisions of §§ 50 and 51 of this Act apply correspondingly to the leasing contracts entered into by a debtor.

§ 53. Nullity of derogating agreements

Agreements by which application of the provisions of §§ 50–52 of this Act is precluded or restricted beforehand are void.

Chapter 3
BODIES IN BANKRUPTCY PROCEEDINGS

Division 1
Trustee in Bankruptcy

§ 54. Professional activities of trustee in bankruptcy

The professional activities of a trustee in bankruptcy are conducting of bankruptcy proceedings, acting as a liquidator or a reorganisation adviser appointed by the court in the case of compulsory dissolution of a legal person and performance of other functions assigned by legislation.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 54[1]. Trustee

(1) A trustee in bankruptcy (hereinafter *trustee*) enters into transactions relating to the bankruptcy estate and performs other acts. The rights and obligations created as a result of the activities of the trustee belong to the debtor unless otherwise provided by law. A trustee, in accordance with his or her duties, participates in court as a party in disputes relating to the bankruptcy estate in lieu of the debtor.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) If several trustees are appointed for the conduct of bankruptcy proceedings, each of the trustees may enter into transactions with the bankruptcy estate or perform other acts unless the court has prescribed upon appointment of the trustees that they shall enter into transactions or perform other acts only jointly. The requirement of joint entry into transactions or performance of other acts applies with regard to third persons only if it is entered in the corresponding register.

(3) In the bankruptcy proceedings of a debtor who is a legal person, the trustee may enter into all transactions and perform all legal acts with the bankruptcy estate. The trustee's right to enter into transactions or perform other acts may be restricted with regard to third persons only in the manner specified in subsection (2) of this section.

(4) In the case of the bankruptcy of a debtor who is a natural person, the trustee may enter into only such transactions and perform only such legal acts with the bankruptcy estate which are necessary for achieving the objective of the bankruptcy proceedings and performing the duties of the trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 55. Principal obligations and rights of trustees

(1) A trustee shall defend the rights and interests of all the creditors and of the debtor and ensure a lawful, prompt and financially reasonable bankruptcy procedure.

(2) A trustee shall perform his or her obligations with the diligence expected from an accurate and honest trustee and take into consideration the interests of all the creditors and the debtor. Trustees perform their obligations personally.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A trustee shall:
1) determine the claims of the creditors, administer the bankruptcy estate, organise its formation and sale and satisfaction of the claims of the creditors out of the bankruptcy estate;
1^{1}) ascertain the causes of insolvency of the debtor and the time when the insolvency was caused;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) organise continuation of the business activities of the debtor if necessary;
3) if the debtor is a legal person, conduct the liquidation of the debtor if necessary;
4) provide information to the creditors and the debtor in the cases prescribed by law;
5) report on his or her activities and provide information concerning the bankruptcy proceedings to the court, the supervisory official and the bankruptcy committee;
5^{1}) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]
6) perform other obligations provided by law.

(3^{1}) A trustee has the right to receive compensation for making a copy of a document from the person who requested a copy of the document.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3^{2}) The compensation for a trustee for making a copy of a document shall be:
1) 0.31 euros per A4-format page;
[RT I 2010, 22, 108 - entry into force 01.01.2011]
2) 0.44 euros per A3-format page.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3^{3}) If the insolvency of the debtor was caused by a grave error in management, the trustee is required to file a claim for compensation for damage against the person liable for the error immediately after sufficient basis for filing a claim has become evident.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) In addition to the rights of trustees provided by law, a trustee has the rights of interim trustees specified in subsection 22 (3) of this Act.

§ 56. Requirements for trustees

(1) The following members of the professional union of the Chamber of Bailiffs and Bankruptcy Trustees (hereinafter *Chamber*) may be trustees:
1) natural persons to whom the Chamber has granted the right to act as trustees;
2) sworn advocates;
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]
3) sworn auditors;
[RT I, 12.11.2010, 1 - entry into force 15.11.2010]
4) bailiffs whose level of education complies with clause 47 (1) 1) of the Courts Act.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A trustee must have the confidence of the court and the creditors.

(3) A trustee shall not be an employee of the court and he or she must be independent of the debtor and the creditors. When giving consent to the court to act as a trustee, the person shall confirm in writing that he or she is independent of the debtor and the creditors.

(4) A person connected with the judge or assistant judge hearing the matter or shall not be appointed as trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 57. Right to act as trustee

(1) The right to act as a trustee is granted to a person with active legal capacity who:
1) has acquired officially recognised Bachelor's degree or a qualification equal thereto within the meaning of subsection 28 (22) of the Republic of Estonia Education Act and who has at least two years' professional experience in the field of finance, law, management or accounting or who has acquired officially recognised Master's degree or a qualification equal thereto within the meaning of subsection 28 (2^{2}) of the Republic of Estonia Education Act;
2) is honest and of high moral character;

3) has oral and written proficiency in Estonian;
4) has passed the examination of trustees pursuant to the procedure provided for in § 95 of the Bailiffs Act;
5) has undergone the training of trustees pursuant to the procedure provided for in § 96 of the Bailiffs Act;

(2) Instead of a Bachelor's degree or Master's degree specified in clause (1) 1) of this section, a person may have acquired also a foreign qualification equal to the Bachelor's degree or Master's degree.

(3) Sworn advocates, sworn auditors and bailiffs complying with clause 47 (1) 1) of the Courts Act are not required to pass the examination of trustees or undergo training in order to be granted the right to act as a trustee. They are granted the right to act as trustees upon acceptance into the membership of the professional union of the Chamber. The abovementioned persons are accepted into the membership of the professional union of the Chamber on the basis of a written application.
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]

(4) A person who has passed the examination of trustees and has been employed in a position which requires higher education in the field of law, economy or financial management for at least three years is not required to undergo training.

(5) A person who has passed the examination of trustees and undergone training in the cases prescribed by law shall submit a written application to the management board of the professional union of the trustees of the Chamber (hereinafter *management board of the professional union*) in order o be granted the right to act as a trustee. The application shall be submitted not later than one year as of passing the examination of trustees. The management board of the professional union shall decide to satisfy or deny the application within one month as of the date of the submission of the application by making a corresponding written decision. A copy of the decision shall be sent to the person and the Ministry of Justice. The reasons for denial of an application shall be provided.

(6) The right to act as a trustee shall not be granted to persons:
1) with a criminal record for an intentionally committed criminal offence;
2) who have been removed from the position of judge, notary, prosecutor or bailiff or disbarred or expelled from the board of auditors or who have been deprived of the profession of a sworn translator on the basis of clause 28 (3) 3) of the Sworn Translators Act or who have been deprived of the qualification of a patent agent on the basis of clause 20 (1) 1) or 2) of the Patent Agents Act during the preceding ten years;
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]
3) who have been released from public service for a disciplinary offence during the preceding five years;
4) who are bankrupt;
5) with regard to whom a prohibition on business applies;
6) who have proved to be obviously unsuitable for the work of a trustee in bankruptcy in their previous professional activities or bailiff's professional activities;
7) who have been deprived of the right to be a trustee in bankruptcy or operate as an undertaking by a court judgment;
8) who have been excluded from the Chamber due to commission of a disciplinary offence in the preceding seven years or who have been deprived of the right to act as a trustee.

(7) Prohibition to act as a trustee may arise also from other grounds provided by law.

(8) Section $117^1$of the Courts Act applies to the verification of the reliability of an applicant for the qualification of a trustee in bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 58. Suspension, termination and deprivation of right to act as trustee

(1) The management board of the professional union may suspend the right of a person to act as a trustee for up to three years at the request of the trustee if the trustee wishes to engage in individual professional development or for other good reason. The requirement concerning the professional liability insurance provided for in § 64 of this Act shall not extend to a person during the period when his or her right to act as a trustee is suspended.

(2) The management board of the professional union shall terminate the right of a person to act as a trustee on the basis of a written application of the person.

(3) The management board of the professional union shall exclude a person from the Chamber:
1) if a circumstance specified in subsection 57 (6) of this Act exists with regard to him or her;
2) on the basis of a proposal specified in subsection 97 (6) of the Bailiffs Act;
3) if prohibition on acting as a trustee is imposed on him or her as a disciplinary penalty.

(4) If a person is excluded from the Chamber, he or she loses the right to act as a trustee.

(5) The procedure for the suspension and termination of the right to act as a trustee and for exclusion of persons from the Chamber shall be established in the statutes of the Chamber.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 59. List of trustees in bankruptcy

(1) After granting the right to act as a trustee, the management board of the professional union shall enter information on the person in the list of trustees in bankruptcy.

(2) The following shall be entered in the list with regard to a trustee:
1) name;
2) business name and contact details of the trustee's office;
3) date of grant of the right to act as a trustee;
4) information concerning the education of the trustee;
5) time and basis for the suspension or deprivation of the right to act as a trustee;
6) the period of validity of the professional liability insurance;
7) information concerning the bankruptcy proceedings in which she or he has been approved as a trustee.

(3) The list shall be maintained by the Chamber. The list shall be made available to the public on the website of the Chamber. The procedure for maintaining the list shall be established in the statutes of the Chamber.

(4) A trustee entered in the list shall ensure the correctness of the information submitted.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 60. Documents and data media relating to professional activities of trustees

(1) An interim trustee and a trustee shall prepare a file on bankruptcy proceedings. The requirements for the content and form of the trustees' files and the documents to be prepared in bankruptcy proceedings shall be established by a regulation of the Minister of Justice. The requirements also apply to the interim trustees' files and documents.

(2) The documents and data media relating to the professional activities of a trustee shall be clearly distinguishable from other documents and data media.

(3) A trustee shall preserve the trustee's file and other documents and data media relating to bankruptcy proceedings for seven years as of termination of the bankruptcy proceedings or the date when the court released the trustee in bankruptcy from his or her obligations if this occurred after termination of the bankruptcy proceedings.

(4) The file of an interim trustee who is not going to continue as a trustee and the file prepared by a trustee who is released before the end of the bankruptcy proceedings shall be transferred to the trustee conducting the proceeding and such trustee shall preserve the file pursuant to the procedure provided in subsection (3) of this section.

(5) The procedure for the transfer of the file specified in subsection (4) of this section shall be established by a regulation of the Minister of Justice.

(6) In the case of deprivation of the right to act as a trustee or the death of a trustee, the files of terminated bankruptcy proceedings and other documents and data media shall be transferred to the management board of the professional union of trustees in bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 61. Approval of trustee

(1) Approval of a trustee appointed by a bankruptcy ruling shall be decided by the first general meeting of creditors. If notification is given of a general meeting of creditors pursuant to the prescribed procedure but none of the creditors appear at the first general meeting, the trustee is deemed to be approved by the meeting.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) If a trustee appointed by a bankruptcy ruling is not approved, the creditors shall elect a new trustee whose approval shall be decided by a corresponding court ruling within five days after receipt of the decision of the general meeting.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) If a court does not approve a trustee elected at a general meeting, the court shall appoint a new trustee by a ruling and the trustee need not be approved by a general meeting of creditors.

(4) A court shall not approve a trustee elected by creditors if the trustee does not meet the requirements provided for in § 56 of this Act or the trustee does not have a valid professional liability insurance, and it shall not appoint as trustee a person whom a general meeting of creditors refused to approve in accordance with subsection (2) of this section. The court ruling shall set out the reasons for refusal to approve the trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) Creditors and the debtor may file appeals against the ruling by which the court appoints a new trustee in the case specified in subsection (3) of this section. The court shall annul the ruling on the appointment of the trustee on the basis of the appeal if the trustee was appointed in violation of the provisions of subsection 56 (1), (3) or (4) of this Act.

(6) If, after the first general meeting of creditors, the court appoints another trustee in addition to the trustee already appointed, the trustee shall be approved pursuant to the provisions of subsections (1)–(5) of this section.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 62. Representative of or assistant to trustee

(1) A trustee may use the assistance of third persons in performing specific acts relating to the bankruptcy proceedings. A trustee may conduct transactions relating to the bankruptcy proceedings through a representative.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A trustee may use a representative and an assistant in performing acts and entering into transactions relating to the bankruptcy proceedings with the prior consent of the bankruptcy committee. A person connected with the judge hearing the matter, the assistant judge or the debtor shall not be a representative or an assistant of a trustee and a representative or an assistant of a trustee shall be independent of the debtor and the creditors.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A trustee shall be liable for the activities of a third person, representative or assistant specified in subsection (1) of this section in the bankruptcy proceedings as for his or her own activities.

(4) A trustee pays remuneration to a third person, representative or assistant specified in subsection (1) of this section out of his or her own remuneration according to the agreement between them. If using a representative is clearly necessary due to the complexity of the matter, remuneration may be paid to a representative out of the bankruptcy estate with the consent of the bankruptcy committee.

§ 63. Liability of trustee

(1) A trustee who violates his or her obligations and thereby wrongfully causes damage to the debtor, a creditor or a person who may claim performance of a consolidated obligation shall compensate for the damage.

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

§ 64. Professional liability insurance of trustees

(1) In order to ensure compensation for damage caused by trustee's professional activities, the trustee shall enter into a professional liability insurance contract under the following conditions with an insurer which is a company having permission to engage in insurance activities in Estonia:
1) the insured event is violation of the obligations of the trustee or the activity of a person specified in subsection 62 (3) of this Act during the period of insurance which causes damage and shall be compensated by the trustee on the basis of the Act regulating the professional activities of trustees;
2) the minimum amount of insurance coverage for one insured event shall be not less than 63,910 euros and the maximum amount of insurance indemnities payable for all the insured events occurring during the period of insurance shall be not less than 300,000 euros;
[RT I 2010, 22, 108 - entry into force 01.01.2011]
3) in the case of an excess policy, the insurer shall compensate for the full amount of the damage but not more than the sum insured, and claim the excess from the policyholder.

(2) Trustees are not required to insure liability arising from intentional violation of obligations.

(3) A bailiff, an advocate and a sworn auditor whose liability arising from his or her professional activities has been insured pursuant to law is not required to enter into the contract specified in subsection (1) of this section if the professional liability insurance contract includes acting as a trustee in bankruptcy.
[RT I, 12.11.2010, 1 - entry into force 15.11.2010]

(4) A trustee in bankruptcy shall not pay insurance premiums out of the bankruptcy estate or out of the assets of the company to be liquidated.

(5) A trustee shall submit a copy of the professional liability insurance contract and an insurance policy to the management board of the professional union immediately after entry into the professional liability insurance contract. The professional union is required to verify the existence of the professional liability insurance.

(6) Upon failure to enter into a professional liability insurance contract by the due date specified by the management board of the professional union, the management board of the professional union shall suspend the right of the person to engage in the professional activities of a trustee until entry into a contract.

(7) A trustee shall notify the management board of the professional union in writing of the circumstances listed in subsections 514 (1) and (3) of the Law of Obligations Act within two weeks as of becoming aware of such circumstances. A trustee shall forward information on payment by the insurer of an insurance indemnity to the aggrieved person, the amount of the indemnity and the event which caused the insurance case to the management board of the professional union within two weeks as of payment of the insurance indemnity.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 65. Remuneration of trustee

(1) Trustees have the right to receive remuneration for the performance of their duties. The court shall determine the remuneration of a trustee in bankruptcy upon approval of the final report of the bankruptcy proceedings after having heard the opinions of the trustee, the debtor and the bankruptcy committee. At the request of a trustee, the court shall order the remuneration of the trustee to be paid to the office through which the trustee operates.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) The remuneration of a trustee shall be calculated on the basis of the money which has been received and included in the bankruptcy estate as a result of the sale and recovery of the bankruptcy estate and other activities of the trustee. The court shall determine the amount of the remuneration taking into account the volume and complexity of the work of the trustee and his or her professional skills. In the calculation of the remuneration of a trustee, the assets of the debtor at the time of the declaration of bankruptcy or assets received independently of the activities of the trustee shall not be taken into account.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) At the request of a trustee, the court shall prescribe a preliminary remuneration for the trustee after considering the opinion of the bankruptcy committee; the preliminary remuneration shall be set off against the remuneration prescribed for the trustee upon termination of the bankruptcy proceedings. A request of a trustee shall be adjudicated by a ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) If additional money is received or included in a bankruptcy estate after termination of the bankruptcy proceedings, the court shall prescribe additional remuneration for the trustee at the request of the trustee.

(5) The court shall prescribe remuneration for a trustee in the minimum amount specified in subsection $65^1$of this Act. In justified cases, the court may prescribe remuneration in the amount exceeding the minimum amount. The court may prescribe remuneration in the amount lower than the minimum amount if the amount of remuneration does not correspond to the volume of work performed and the liability.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5^1) The court may prescribe remuneration for a trustee in the amount exceeding the minimum amount specified in subsection 65^1(1) of this Act which does not exceed the maximum amount specified in subsection (2) of the same section if:
1) the bankruptcy estate is of high value and application of the minimum amount is not fair taking into account the activities of the trustee upon increasing and recovery of the assets;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) the trustee, in accordance with his or her duties, participates in court disputes in lieu of the debtor and does not use any additional legal assistance;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
3) the court deems it to be justified.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) If a compromise is reached or the bankruptcy proceedings are terminated without termination of the debtor who is a legal person, the court shall determine the remuneration of the trustee taking into account the volume and complexity of the duties of the trustee and his or her professional skills.

(7) If a debtor who is a legal person is terminated regardless of rehabilitation carried out in the course of the bankruptcy proceedings, the activities of the trustee in the rehabilitation of the debtor shall also be taken into consideration in determining the remuneration of the trustee.

(8) If a court finds upon approval of a final report that the trustee has incurred unnecessary expenses out of the bankruptcy estate in performing his or her duties, the court shall deduct such expenses from the remuneration of the trustee. If the trustee had the consent of the bankruptcy committee for incurring the unnecessary expenses, the trustee has the right of recourse against the members of the bankruptcy committee who voted in favour of granting the consent.

(9) If bankruptcy proceedings are conducted by more than one trustee, the trustee's remuneration shall be divided between them.

[RT I 2009, 68, 463 - entry into force 01.01.2010]

(10) The specific procedure for calculating the remuneration of interim trustees and trustees and the expenses subject to reimbursement may be established by a regulation of the Minister of Justice.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(11) If a court has declared bankruptcy on the basis of subsection 171 (1^1) of this Act and the debtor's assets are insufficient for covering the costs of the bankruptcy proceedings, the court shall determine the remuneration of a trustee on the basis of subsections 23 (1) – (3) of this Act. The court may order grant of procedural assistance for covering the remuneration and the expenses of a trustee. An application for procedural assistance may be submitted by a trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 65^1. Limits of remuneration of trustee

(1) The minimum amount of the remuneration of a trustee on a bankruptcy estate of up to 6,400 euros is 20 per cent of the bankruptcy estate. The minimum amounts of remuneration paid on a bankruptcy estate exceeding 6,400 euros are the following:

Size of bankruptcy estate in euros	Minimum amount of the remuneration of a trustee ineuros	Remuneration of a trusteeonthe part exceeding the lower limit of the size of bankruptcy estate
6,401 – 12,800	1,597	15%
12,801 – 32,000	2,556	11%
32,001 – 64,000	4,665	10%
64,001 – 128,000	7,861	7%
128,001 – 320,000	12,334	3.5%
320,001 – 640,000	19,045	2.25%

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) The maximum amount of the remuneration payable to a trustee on a bankruptcy estate of up to 6400 euros is 35 per cent of the bankruptcy estate. The maximum amounts of remuneration paid on a bankruptcy estate exceeding 6,400 euros are the following:

Size of bankruptcy estate in euros	Maximum amount of the remuneration of a trustee ineuros	Remuneration of a trustee on the part exceedingthe lower limit of the size of bankruptcy estate
6,401 – 12,800	2,556	18%
12,801 – 32,000	3,706	12.5%
32,001 – 64,000	6,103	11%
64,001 – 128,000	9,618	7.5%
128,001 – 320,000	14,412	4%
320,001 – 640,000	22,081	2.6%

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) The maximum amount of the remuneration payable to a trustee on a bankruptcy estate exceeding 640,000 euros is up to 5 per cent of the bankruptcy estate.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(4) The amount of the remuneration shall not be less than 1 per cent of the money which has been received and included in the bankruptcy estate as a result of the sale and recovery of the bankruptcy estate and other activities of the trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 66. Reimbursement of expenses of trustee

(1) In addition to the remuneration of a trustee, he or she has the right to request the reimbursement of the necessary expenses incurred in the performance of his or her obligations. For that purpose, a trustee shall, after each three months as of declaration of bankruptcy, submit a report on the expenses incurred during that period to the bankruptcy committee and the court. The bankruptcy committee and the court have the right to demand submission of expense receipts and additional information from the trustee. A court may refuse to approve reimbursement of the expenses, of which the bankruptcy committee and the court were not notified in due time.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A trustee has the right to request, with the prior consent of the bankruptcy committee, reimbursement for the expenses relating to legal counselling or auditing or accounting services if such expenses are necessary due to the large volume or complexity of the bankruptcy proceedings or a duty to be performed by the trustee,

and the trustee cannot be reasonably expected to perform the duty himself of herself. If the court finds that the expenses were justified regardless of the fact that the bankruptcy committee has not granted consent, the court may approve reimbursement of the expenses.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) With the consent of the bankruptcy committee, the trustee may cover the necessary expenses incurred in the course of the proceedings out of the bankruptcy estate as they occur. Upon approval of the distribution proposal and the final report of the bankruptcy proceedings, the court shall verify whether the expenses incurred in the performance of the obligations of the trustee were necessary and justified and approve the amount of the necessary and justified expenses.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) If the bankruptcy committee has given consent to the unnecessary expenses incurred by the trustee in the performance of his or her duties, the members of the bankruptcy committee who gave the consent shall be liable to the debtor solidarily with the trustee. A claim for the return of the amount of such unnecessary expenses to the bankruptcy estate may be filed also by a creditor.

§ 67. Complaint against activities of trustee

Creditors and the debtor may file complaints against the activities of the trustee with the bankruptcy committee, the general meeting of creditors, the court, the Chamber or the Ministry of Justice.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 68. Release of trustee

(1) A court shall release a trustee at his or her request. The trustee shall notify the court of such request in writing thirty days in advance and submit an activity report. The court may release the trustee before the end of the term for advance notice in the interests of the bankruptcy proceedings.

(2) If a trustee fails to perform his or her duties or performs them inadequately, the court shall release the trustee on its own initiative, at the request of the bankruptcy committee, the debtor or the Ministry of Justice, or on the basis of a decision of the general meeting of creditors. The court shall release the trustee also if it becomes evident that the trustee does not have the right to act as a trustee. At the request of the court, the trustee shall submit an activity report within the term determined by the court.

(3) If a court releases a trustee, it shall, by a ruling, appoint a new trustee who need not be approved by the general meeting. If there are several trustees and one of them is released, the court shall decide whether it is necessary to appoint a new trustee to replace the released trustee.

(4) Creditors and the debtor may file appeals against the ruling by which the court refuses to release the trustee in the case specified in subsection (2) of this section or appoints a new trustee in the case specified in subsection (3) of this section. The court shall annul the ruling on the appointment of the trustee on the basis of the appeal if the trustee was appointed in violation of the provisions of subsection 56 (1), (3) or (4) of this Act.

(5) If a court hearing an appeal against a ruling on the appointment of a trustee annuls the ruling, this shall not affect the validity of the legal acts performed by or with respect of the trustee.

(6) A trustee may file an appeal against the ruling by which the court released the trustee on the basis specified in subsection (2) of this section. Appeals may be filed against the circuit court ruling on the appeal against the ruling.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 69. Supervision exercised by court over activities of trustee

(1) Courts shall exercise supervision over the activities of trustees in bankruptcy. A court may require a trustee to submit information concerning the course of the bankruptcy proceedings and the activities of the trustee at any time. A court may examine the trustee's file and obtain bank statements of the debtor's accounts concerning the period when the trustee had the right to use the debtor's account.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If a trustee violates his or her obligations, the court may impose a fine on the trustee if the court has warned the trustee that a fine may be imposed. In the event of a serious violation of obligations, the court may impose a fine on the trustee without a prior warning.

(3) The amount of the fine for one violation shall not exceed 6,400 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(4) A trustee may file an appeal against the ruling imposing a fine.

§ 70. State supervision over activities of trustees

(1) The Ministry of Justice shall exercise supervision over the activities of trustees to the extent provided by law.

(2) The Ministry of Justice shall exercise supervision over the activities of a trustee on the basis of a complaint filed against the trustee or other information which gives reason to believe that the trustee has violated his or her obligations.

(3) In exercising supervision over the activities of a trustee, the Ministry of Justice has the right to verify whether the professional activities of the trustee are in conformity with the requirements and the law. The Ministry of Justice may involve an auditor or the Chamber in the exercise of supervision.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) The Ministry of Justice shall notify the court and the bankruptcy committee of a violation of the obligations of a trustee discovered in the course of supervision.

(5) In order to exercise supervision, the Ministry of Justice has the right to:
1) obtain necessary information and documents from the trustee, debtor, bankruptcy committee and the state and local government agencies;
2) obtain necessary information from creditors;
3) examine the court file of the bankruptcy proceeding, trustee's file, documents of the general meeting of creditors and documents of the bankruptcy committee.
4) examine the records maintained on the bankruptcy proceedings by the trustee, and the accounts and financial situation of the debtor;
5) be present at the meetings of the bankruptcy committee and the general meetings of creditors;
6) obtain bank statements of the debtor's accounts concerning the period when the trustee had the right to use the debtor's account;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
7) examine the documents of the liquidation proceedings and the bank statements of the accounts of a company to be liquidated concerning the period of the liquidation proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) The Ministry of Justice may involve in the exercise of supervision a generally recognised organisation engaging in development of the professional activities of trustees in bankruptcy.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 71. Disciplinary liability

(1) The Minister of Justice may impose a disciplinary penalty for violation of the obligations arising from legislation regulating the professional activities of trustees. The Minister of Justice shall not impose a disciplinary penalty on a sworn advocate.
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]

(2) The court of honour of the Chamber may impose a disciplinary penalty on a trustee:
1) for violation of the decisions of a body of the Chamber or the good professional practice;
2) for an indecent act which is in conflict with the generally recognised moral standards or which decreases the trustworthiness of the profession of trustee in bankruptcy, regardless of whether the act is committed in the performance of obligations of a trustee in bankruptcy;
3) for the violation specified in subsection (1) of this section if the Ministry of Justice has referred hearing of the matter to the court of honour.

(3) The court of honour of the Chamber shall 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 commencement of proceedings of the court of honour with regard to an advocate from the court of honour of the Bar Association. The Minister of Justice may request commencement of the proceedings of court of honour of the Bar Association in accordance with subsection 16 (4) of the Bar Association Act.

(4) The disciplinary penalties imposed by the Minister of Justice are:
1) reprimand;
2) a fine of 64 – 6,400 euros;
[RT I 2010, 22, 108 - entry into force 01.01.2011]
3) prohibition on acting as a trustee for up to five years.

(5) A fine imposed as a disciplinary penalty shall be paid within three months as of the imposition thereof. The fine shall be transferred into public revenues. The Minister of Justice may prescribe in the directive imposing a fine that the fine shall be paid in instalments on specified dates during a period of one year.

(6) A directive of the Minister of Justice concerning imposition of prohibition on acting as a trustee shall be sent to the management board of the professional union for execution.

(7) One disciplinary penalty may be imposed for one and the same violation. If the Minister of Justice has imposed a disciplinary penalty on a trustee, the court of honour of the Chamber or the court of honour of the Bar Association may not impose a penalty on the trustee for the commission of the same disciplinary offence. Releasing a trustee or imposing of a fine by a court on the basis of subsection 69 (2) of this Act shall not be deemed to be disciplinary penalty. Upon imposing a disciplinary penalty, punishment for a misdemeanour or criminal punishment imposed for the same offence and disciplinary penalty imposed by another body or official not specified in this Act shall not be taken into account.

(8) If it becomes evident that a trustee has violated his or her obligations in ongoing bankruptcy proceedings, the Minister of Justice has the right not to impose a disciplinary penalty and request the court to:
1) release the trustee;
2) impose a fine on the trustee.

(9) Before submission of a request specified in subsection (8) of this section, the Ministry of Justice shall demand a written explanation concerning the circumstances relating to the violation of obligations from the trustee.

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

(11) A disciplinary penalty shall not be imposed if more than ten years have passed from the commission of a violation specified in subsection (1) of this section or more than three years have passed from the commission of a violation specified in clause (2) 1) or 2) of this section.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 72. Obligation to maintain business secrets

A person who exercises supervision over the activities of a trustee shall, during the period of his or her employment or service relationship and after termination thereof, maintain the business secrets and confidentiality of the information relating to the private and family life of other persons and other confidential information which has become known to him or her in the performance of his or her duties.

Division 2
Bankruptcy Committee

§ 73. Competence of bankruptcy committee

(1) A bankruptcy committee shall protect the interests of all the creditors, monitor the activities of the trustee and perform other duties provided by law in bankruptcy proceedings. The bankruptcy committee verifies whether the activities of the trustee are expedient and in compliance with the law, and monitors the course of the business activities, the accounts and the financial situation of the debtor for such purpose.

(2) The bankruptcy committee has the right to examine the trustee's file and, where necessary, to demand additional information and documents concerning the bankruptcy proceedings, and to monitor the trustee's economic activities related to the management of the bankruptcy estate.
[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 74. Formation and members of bankruptcy committee

(1) Persons with active legal capacity who are independent from the trustee may be members of a bankruptcy committee. Persons connected with the trustee or persons specified in subsection 57 (6) of this Act shall not be members of a bankruptcy committee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(1^1) The number of the members of a bankruptcy committee shall be decided by a general meeting of creditors. A bankruptcy committee shall have at least three and not more than seven members.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A bankruptcy committee shall include persons proposed by creditors with larger as well as smaller claims.

(3) The members of a bankruptcy committee shall elect the chair of the committee from among themselves. Judges, persons connected with the debtor, or the trustee appointed for the bankruptcy proceedings in question shall not be members of the bankruptcy committee.

(4) A bankruptcy committee has a quorum if more than one-half of its members are present. Each member of a bankruptcy committee has one vote. A bankruptcy committee adopts decisions by a simple majority and upon an equal division of votes the vote of the chair governs.

(5) A member of a bankruptcy committee may be released by the general meeting of creditors. A member of a bankruptcy committee who should not be a member of the bankruptcy committee or who violates his or her obligations may be released by the court at its own initiative or at the request of a creditor. The court may release a member of a bankruptcy committee at his or her request if the general meeting has refused to release the member although he or she has requested to be released.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) A trustee shall immediately send a list of the members of the bankruptcy committee and amendments to the list to the registration department of the court in whose jurisdiction the seat or residence of the debtor entered in the commercial register or the non-profit associations and foundations register is located.

(7) On the basis of a decision of a general meeting of creditors, a bankruptcy committee need not be formed. In such case, the duties of the bankruptcy committee shall be performed by the general meeting of creditors.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 75. Liability of members of bankruptcy committee

Members of a bankruptcy committee who have wrongfully caused damage to the debtor, a creditor or a creditor with a consolidated claim through violation of their obligations shall be solidarily liable for the damage caused.

§ 76. Remuneration of members of bankruptcy committee

(1) Reasonable remuneration may be paid to the members of a bankruptcy committee out of the bankruptcy estate if payment of the remuneration is reasonable taking into account the specifications of the bankruptcy proceedings.

(2) Payment of remuneration to the members of a bankruptcy committee shall be decided by the general meeting of creditors which shall also determine the amount of and the procedure for payment of the remuneration. The limits of the remuneration paid to the members of a bankruptcy committee out of the bankruptcy estate shall be established by the Minister of Justice. The remuneration of the members of a bankruptcy committee shall not be determined before approval of the distribution proposal by the court.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A trustee shall immediately submit a decision on the remuneration of the members of the bankruptcy committee to the court for approval. A trustee may file an objection to the decision of the general meeting on the remuneration of the members of the bankruptcy committee with the court. The court shall decide on the approval of payment of remuneration to members of the bankruptcy committee by a ruling made within fifteen days as of submission of the corresponding decision to the court. The court refuses to approve the decision of the general meeting if the remuneration has been determined in disregard of the provisions of subsections (1) or (2) of this section.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) A member of a bankruptcy committee who does not receive remuneration shall be reimbursed for the necessary and justified expenses incurred in the performance of the obligations of the member out of the bankruptcy estate.

Division 3
General Meeting of Creditors

§ 77. Competence of general meeting of creditors

A general meeting of creditors is competent to:
1) approve the trustee and elect the bankruptcy committee;
2) decide on the continuation or termination of the activities of the undertaking of the debtor;
3) decide on termination of the debtor if the debtor is a legal person;
4) make a compromise;
5) decide, to the extent provided by law, on issues relating to the sale of the bankruptcy estate;
6) defend claims;
7) resolve complaints against the activities of the trustee;
8) decide on the remuneration of the members of the bankruptcy committee;
9) resolve other issues which are within the competence of general meetings of creditors pursuant to law.

§ 78. First general meeting of creditors

(1) The first general meeting of creditors shall be held not earlier than fifteen days and not later than thirty days after the declaration of bankruptcy.

(2) At the first general meeting of creditors, the creditors shall elect the bankruptcy committee and decide on the approval of the trustee and continuation of the activities of the undertaking of the debtor or termination of

the debtor if the debtor is a legal person. The creditors may decide on other issues within the competence of the general meeting.

(3) If notice of the first general meeting of creditors is given pursuant to the prescribed procedure but none of the creditors appear at the first general meeting, the court may, on the proposal of the trustee, decide on the continuation of the activities of the undertaking of the debtor or termination of the debtor if the debtor is a legal person and on the appointment of the members of the bankruptcy committee or non-formation of a bankruptcy committee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 79. Calling of general meetings of creditors

(1) A trustee calls a general meeting of creditors in the cases prescribed by law or at his or her own initiative.

(2) A trustee is required to call a general meeting of creditors at the request of the bankruptcy committee or:
1) at least five creditors whose claims added together constitute at least one-fifth of the total amount of the claims;
2) one or more creditors whose claims added together constitute at least two-fifths of the total amount of the claims.

(3) A general meeting shall be called within fourteen days after submission of the corresponding request. If the trustee fails to call a general meeting during the specified term, the meeting may be called by the bankruptcy committee or the creditors who requested the meeting to be called.

(4) A trustee shall publish a notice concerning the time, place and agenda of a general meeting of creditors in the official publication *Ametlikud Teadaanded*. Publication of the notice is not necessary if all the creditors are notified of the meeting in any other manner. The notice shall be published or communicated to the creditors in any other manner at least five days before the date of the meeting unless a different term is prescribed by law.

§ 80. Chairing of and participating in general meetings of creditors

(1) General meetings of creditors shall be chaired by the trustee. If, in exceptional circumstances, the trustee cannot chair the first general meeting in person, the court may appoint another trustee for that purpose by a ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) All creditors have the right to participate in a general meeting personally or through a representative, and the debtor and other persons whom the court or the trustee has invited or permitted to participate in a general meeting may participate in the general meeting.

(3) The judge shall participate in the first general meeting of creditors. The judge shall participate in other general meetings if there is reason to believe that a dispute may arise in determining the number of votes.

§ 81. Decisions of general meetings of creditors

(1) The decisions of a general meeting of creditors are adopted by a simple majority of the votes of the creditors participating in the meeting.

(2) A general meeting of creditors has a quorum regardless of the number of the votes represented if the creditors were notified of the time and place of the meeting within the specified term and in the manner specified in subsection 79 (4) of this Act.

§ 82. Determining number of votes

(1) At a general meeting of creditors, the number of the votes of each creditor is proportional to the amount of the creditor's claim.

(2) A claim arising from a conditional transaction the suspensive condition of which is not yet fulfilled grants a voting right only if fulfilment of the condition is likely or the condition is fulfilled.

(3) Until the defence of claims, the number of the votes of each creditor shall be determined by the trustee on the basis of the documents at his or her disposal. A creditor shall submit the documents which are the basis for determining the number of the votes of the creditor to the trustee not later than three working days before the general meeting.

(4) If a creditor participating in a general meeting does not consent to the number of the votes assigned to the creditor by the trustee or if the number of the votes assigned to the creditor is contested by another creditor, the

number of the votes shall be determined by a ruling of the judge participating in the general meeting. An appeal may be filed against such ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) If the claim of a creditor has been defended, the number of the votes of the creditor is proportional to the amount of the defended claim.

(7) If the number of the votes of a creditor has been determined pursuant to the procedure provided for in subsections (3) and (4) of this section, this shall not hinder assignation of a different number of votes to the creditor at another meeting if new circumstances become evident.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 83. Contestation of decisions of general meeting of creditors

(1) A debtor, the creditors and the trustee may request that the court revoke a decision of a general meeting of creditors if the decision is contrary to law or was made in violation of the procedure provided by law or if the right to contest the decision is directly prescribed by law. Revocation of a decision of a general meeting of creditors may be requested also if the decision damages the common interests of the creditors.

(2) Requests for revocation of a decision of a general meeting of creditors may be filed with the court within ten days as of becoming aware of the decision, but not later than within thirty days as of the adoption of the decision.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) If approval of a decision of a general meeting is within the competence of the court, the decision shall not be contested. Creditors may submit objections against such decisions to the trustee who shall submit the objections to the court upon submission of the decision of the general meeting for approval.

(4) A court shall hear a request for revocation of a decision of a general meeting of creditors within ten days as of submission of the request. The court shall notify the trustee, the person who submitted the request and the persons specified in subsection (5) of this section of the court session, whereas the interval between the date of the service of the summonses and the court session shall be at least five days. The absence of such persons shall not hinder the hearing of the claim.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) The chair of a bankruptcy committee shall participate in court hearings of actions concerning revocation of a decision of the debtor in bankruptcy proceedings on behalf of the debtor in bankruptcy proceedings. If a bankruptcy committee has not been elected, the person appointed for such purpose at a general meeting shall participate in the court hearing.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

Division 4
Court

§ 84. Duties of courts in bankruptcy proceedings

Courts shall exercise supervision over the lawfulness of bankruptcy proceedings and perform other duties provided by law.

§ 84[1]. Competence of assistant judges in bankruptcy proceedings

(1) To the extent and pursuant to the procedure provided by this section, an assistant judge may perform the duties of a court instead of a judge.

(2) In a bankruptcy proceeding where the debtor is a legal person, an assistant judge is competent to issue court rulings and to exercise court supervision including, to participate in the general meeting of creditors. A judge shall decide on the specific division of tasks between himself or herself and an assistant judge in a bankruptcy matter, and may give instructions to the assistant judge.

(3) Appointment of an interim trustee, resolution of a bankruptcy petition, actions related to a bankruptcy proceeding, approval of a distribution proposal, termination of bankruptcy proceedings and imposition of a fine, prohibition on business, compelled attendance, detention, prohibition on departure from residence shall be within the exclusive competence of judges.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) The provisions of subsections 595 (2) to (4) correspondingly apply to the competence of assistant judges and removal of assistant judges.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 4
RIGHTS AND OBLIGATIONS OF DEBTOR

§ 85. Obligation to provide information

(1) A debtor shall provide the court, the trustee and the bankruptcy committee with information which they need in connection with the bankruptcy proceedings, particularly concerning the assets, including obligations, and the business or professional activities of the debtor. A debtor is required to provide the trustee with the balance sheet together with an inventory of the assets, including obligations, of the debtor as at the date of declaration of bankruptcy.

(2) Third persons who are in possession of property belonging to a debtor or have proprietary obligations to the debtor are also required to provide information concerning the property of the debtor.

(3) The employees of a debtor and former employees who have resigned within the preceding two years before the filing of the bankruptcy petition are also required to provide the information specified in subsection (1) of this section.

§ 86. Debtor's oath

(1) 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.

(2) If a court requires a debtor to take an oath, the debtor shall take the oath before the first general meeting of creditors unless the court determines a different date for taking the oath.

(3) The debtor shall take the following oath orally:
"I (name) swear by my honour and conscience that the information submitted to the court concerning my assets, debts and business activities is correct to my knowledge." The debtor shall sign the text of the oath.

§ 87. Obligation to participate in bankruptcy proceedings

(1) A debtor shall provide assistance to the interim trustee and the trustee in the performance of their duties.

(2) A debtor is required to be available at the direction of the court in order to perform his or her obligation to provide information and participate in the bankruptcy proceedings.

(3) A debtor shall be personally present in the sessions of the court hearing the bankruptcy matter if the court so requires. The debtor shall be personally present at the general meetings of creditors, meetings of the bankruptcy committee and preparation of an inventory of the debtor's assets and participate in the performance of other acts relating to the bankruptcy proceedings if the court or the trustee so requires.

(4) The absence of a debtor shall not hinder the holding of a court session or meeting or performance of any other act unless the debtor must perform the act personally.

§ 88. Prohibition on departing from residence

(1) A debtor shall not leave Estonia without the permission of the court when the bankruptcy of the debtor has been declared but he or she has taken the oath.

(2) If there is reason to believe that a debtor may evade performance of the obligations arising from this Act, the court may, on the proposal of the trustee or on its own initiative, prohibit the debtor from departing from his or her residence.

(3) The prohibition specified in subsection (2) of this section applies until the end of the bankruptcy proceedings unless the court orders otherwise.

(4) If the prohibition specified in subsection (2) of this section is applied before the declaration of bankruptcy, the court shall decide on maintaining or revoking the prohibition upon making the bankruptcy ruling.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 89. Imposition of fine, compelled attendance or arrest on debtor

[RT I 2009, 68, 463 - entry into force 01.01.2010]

(1) A court may impose a fine, compelled attendance or arrest on a debtor in the event of non-compliance with a direction of the court or in order to secure performance of an obligation provided by law if the debtor hinders the bankruptcy proceedings by:
[RT I 2009, 68, 463 - entry into force 01.01.2010]
1) failure to perform the obligation to provide information (§ 85);
2) failure to perform the obligation to participate in the bankruptcy proceedings (87);
3) failure to perform the obligation to take the oath (§ 86);
4) violating the prohibition on departure from his or her residence (§ 88);
5) violating the prohibition on disposing of the bankruptcy estate (§ 20 and clauses 35 (1) 3) and 4));
6) materially violating the obligations arising from this Act in any other manner thereby damaging the bankruptcy estate.

(2) A debtor may be sentenced to detention for up to three months.

(3) If a debtor is sentenced to detention for failure to perform an obligation specified in clause (1) 1), 2) or 3) of this section, the debtor shall be released after he or she has performed the obligation.

(4) If a debtor is sentenced to detention for violation of the prohibition specified in clause (1) 4) of this section or for an activity specified in clause (1) 5) of this section, the court shall release the debtor if there is reason to believe that the release of the debtor will not hinder the progress of the bankruptcy proceedings.

(5) A debtor may file an appeal against the ruling by which the court imposed detention with regard to the debtor. Appeals may be filed against the circuit court ruling on the appeal against the ruling.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 90. Application of provisions

If a debtor is a legal person, the provisions of §§ 85–89 of this Act apply correspondingly to the persons specified in subsections 19 (1) and (3) of this Act.

§ 91. Prohibition on business

(1) A debtor who is a natural person shall not act as a sole proprietor, a member of a management body of a legal person, the liquidator of a legal person or a procurator during the period from the declaration of the bankruptcy of the debtor until the end of the bankruptcy proceedings without the permission of the court.

(2) In the event of the bankruptcy of a debtor who is a legal person, the court may order who of the persons specified in subsections 19 (1) and (3) of this Act must not act as an undertaking, a member of a management body of a legal person, the liquidator of a legal person or a procurator until the end of the bankruptcy proceedings.

(3) If a debtor or a person specified in 19 (1) or (3) of this Act is convicted of a bankruptcy offence or a criminal offence relating to execution procedure, a tax offence or a criminal offence specified in §§ 380 or 3811 of the Penal Code on the basis of a court judgment, the court may order at the end of the bankruptcy proceedings that the prohibition on business specified in subsection (1) of this section apply to the debtor who is a legal person or a person specified in subsection 19 (1) or (3) of this Act also within three years after the end of the bankruptcy proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) A person with respect to whom a prohibition on business applies may file an appeal against the ruling by which the court applied the prohibition. Appeals may be filed against the circuit court ruling on the appeal against the ruling.

(5) The Minister of Justice may establish, by a regulation, a list of foreign states the prohibitions on business imposed under whose legislation are recognised in Estonia. The recognised prohibitions on business shall have been ordered by court and the preconditions and content thereof shall be similar to the prohibitions on business imposed on the basis of Estonian law. The duration of recognised prohibitions on business is determined by the law of the corresponding foreign state, the scope of application thereof in Estonia is determined by Estonian law.
[RT I 2006, 61, 456 - entry into force 01.01.2007]

§ 91^1. Right to obtain information

A debtor has the right to examine the trustee's file and the court file of the bankruptcy matter. A trustee may, for justified reasons, deny a debtor's request to examine a document included in the trustee's file if this is detrimental to the conduct of bankruptcy proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 92. Hearing of debtor

If the hearing of a debtor is prescribed by this Act, the debtor need not be heard if the whereabouts of the debtor are unknown or if the debtor is in a foreign state and his or her hearing would delay the proceedings.

Chapter 5
CLAIMS IN BANKRUPTCY PROCEEDINGS

Division 1
Filing of Claims

§ 93. Term for giving notification of claims

(1) Creditors are required to notify the trustee of all their claims against the debtor which arose before the declaration of bankruptcy, regardless of the basis or the due dates for fulfilment of the claims, not later than within two months as of the date of publication of the bankruptcy notice in the official publication *Ametlikud Teadaanded*.

(2) If a bankruptcy notice is published in the official publication *Ametlikud Teadaanded*several times, the term specified in subsection (1) of this section commences as of the date of publication of the first notice.

§ 94. Proof of claim

(1) A trustee is notified of a claim by a written petition (proof of claim). The proof of claim shall set out the content, basis and amount of the claim and whether the claim is secured by a pledge. Documents proving the circumstances specified in the proof of claim shall be annexed thereto.

(2) The proof of claim shall be signed by the creditor. If the proof of claim is submitted by a representative, he or she shall annex his or her authorisation document or any other document proving his or her right of representation to the proof of claim.

(3) If the proof of claim is not prepared in accordance with the requirements, the trustee shall grant a term of at least ten days to the person who submitted the proof of claim for elimination of the deficiencies. If the deficiencies are eliminated within the specified term, the proof of claim shall be deemed to have been submitted on the date of its first submission. If the deficiencies are not eliminated, the general meeting of creditors may deem that the proof of claim has not been submitted.

(4) A creditor may file an appeal with the court against a decision of the general meeting by which the proof of claim was deemed not to have been submitted. If the court finds that the decision of the general meeting was not justified, the court shall revoke the corresponding part of the decision of the general meeting and consider the proof of claim submitted.

§ 95. [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 96. Claims in case of bankruptcy of solidary debtor

If a debtor is liable to a creditor solidarily with another person, the creditor may file a claim against the debtor either in part or in whole. If the solidary debtor pays a part of the debt, such part shall be deducted from the debt.

§ 97. Claims against partner personally liable for obligations of company

(1) In the event of the bankruptcy of a general or limited partnership, commercial association or a European Economic Interest Grouping, the trustee has the right to file claims against the partners or members personally liable for the obligations of the company. The proceeds of satisfaction of the claims shall be included in the bankruptcy estate.

(2) After the bankruptcy of a general or limited partnership, commercial association or European Economic Interest Grouping has been declared, the claims directed against the company shall not be filed by the creditors against the partners or members personally liable for the obligations of the company.

(3) In the bankruptcy proceedings concerning a general partner in a general or limited partnership or a member of a commercial association or a European Economic Interest Grouping, the trustee may demand that the court exclude the partner or member from the partnership, association or grouping. The compensation payable to the partner or member upon exclusion shall be included in the bankruptcy estate.

§ 98. Claims arising from conditional transactions

A creditor may also file a claim arising from a conditional transaction the suspensive or resolutive condition of which has not yet arrived. Such claim is deemed to be equal to the unconditional claims in the bankruptcy proceedings unless otherwise provided by this Act.

§ 99. Setting off claims

(1) If a creditor had the right to set off the claim thereof against the claim of the debtor before the declaration of bankruptcy, the creditor may set off the defended claim also after the declaration of bankruptcy. A petition for setting off a claim may be submitted until the last distribution proposal is submitted to the court.

(2) If a debtor's claim is contingent upon a suspensive condition or is not yet due at the time of the declaration of bankruptcy or is not directed at the performance of obligations of the same type, the claim may be set off only when the suspensive condition has arrived, the debtor's claim has fallen due or the obligations have become obligations of the same type. Set-off is not permitted if the suspensive condition of the debtor's claim arrives or the claim falls due before the creditor would have the right to set off the claim thereof.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A claim acquired through assignment may be set off in bankruptcy proceedings only if the claim was assigned and the debtor was notified of the assignment in writing not later than three months before the declaration of bankruptcy. A claim against the debtor which is acquired through assignment shall not be set off if the claim was assigned within the preceding three years before the appointment of an interim trustee and the debtor was insolvent at the time of the assignment and the person who acquired the claim was or should have been aware of the insolvency at the time of the assignment.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(4) Creditors may also set off claims specified in subsections 46 (7), 47 (1), 48 (3), 50 (4), 51 (4) and (5) of this Act.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5) A creditor may set off mutual claims arising from one or several derivative transactions specified in subsection 48 (1) of this Act and set off the balance of the claim remaining after the set-off against the financial security established for the benefit thereof to secure the derivative transaction also after the declaration of bankruptcy if a party to the derivative transaction is a person or organisation specified in subsection 48 (1) of this Act and the terms of the set-off have been agreed on upon concluding the derivative transaction or earlier. The claims arising from a derivative transaction shall be set off in accordance with the terms of the set-off agreement entered into between the debtor and creditor; and the provisions of subsections (1) and (2) of this section do not apply.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(6) The provisions of subsection (5) of this section also apply to the set-off of other mutual claims, concerning which a financial collateral has been established in conformity with § $314^2$of the Law of Property Act on a right of claim to money in an account, a security or credit claim, if the terms of the set-off have been prescribed by law or in the financial collateral arrangement.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

Division 2
Defence of Claims

§ 100. Meeting for defence of claims

(1) Claims shall be defended at a general meeting of creditors (meeting for the defence of claims). Rights of security shall be defended together with the claims which they secure.

(2) The time and place of a meeting for the defence of claims shall be determined by the trustee. The meeting shall be held not earlier than one month and not later than three months after the expiry of the term provided for in subsection 93 (1) of this Act. With good reason, the court may extend the term at the request of the trustee.

(3) If necessary, several meetings for the defence of claims may be held within the term specified in subsection (2) of this section.

(4) Before the meeting for the defence of claims, the creditors and the debtor have the right to examine proofs of claim and the written objections filed. The trustee shall announce a meeting for the defence of claims in the official publication *Ametlikud Teadaanded*at least 15 days in advance indicating the time and place for examination of the proofs of claim and objections. Proofs of claim may be examined within five days before the meeting for the defence of claims.

(5) A meeting for the defence of claims shall be held regardless of the number of the participating creditors if the creditors were notified of the time and place of the meeting on time.

(6) The trustee and the debtor are required to participate in the meeting for the defence of claims. If the debtor is absent, the meeting shall decide whether the defence of claims is possible. The absence of a creditor who filed a claim or an objection shall not hinder the hearing of the claim.

§ 101. Verification of claims and submission of objections before meeting for defence of claims

(1) A trustee is required to verify whether the claims filed are justified and the rights of security securing the claims exist.

(2) Creditors and the debtor may submit written objections concerning the claims or the rights of security securing the claims to the trustee before the meeting for the defence of claims.

§ 102. Restoration of term for filing claims

(1) If a claim is filed after expiry of the term provided for in subsection 93 (1) of this Act with good reason, the general meeting shall restore the term for filing the claim at the request of the creditor. A claim cannot be filed after the distribution proposal has been submitted to the court for approval.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(1^1) The term for filing a claim need not be restored in the case of a claim secured by a pledge.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If the term for filing a claim is not restored, the claim may be defended but, in the case of acceptance, the claim shall be satisfied after satisfaction of the accepted claims which were filed on time.

(3) A decision of a general meeting of creditors by which restoration of the term for filing proofs of claim was refused may be contested by the creditor in court. If the court finds that the general meeting has unfoundedly refused to restore the term for filing claims, the court shall revoke the corresponding part of the decision and restore the term for filing claims.

§ 103. Procedure for defending claims

(1) At a meeting for the defence of claims, claims shall be heard in the order in which they were filed.

(2) A claim, its ranking and the right of security securing the claim are deemed to be accepted if neither the trustee nor any of the creditors objects thereto at the meeting for the defence of claims, or if the trustee or the creditor who filed an objection waives the objection at the meeting for the defence of claims. The trustee is required to object to a claim or a right of security at the meeting for the defence of claims if there is basis for the objection.

(3) If a creditor files a written objection before the meeting for the defence of claims and does not participate in the meeting, the written objection has the same effect as an objection filed at the meeting.

(4) At a meeting for the defence of claims, claims satisfied by a court or arbitration decision which has entered into force, rights of security accepted by a court or arbitration decision which has entered into force and rights of security entered in the land register, ship register, commercial pledge register or the Estonian Central Register of Securities are deemed to be accepted without defence.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(5) After a claim or the right of security securing a claim has been accepted, objections concerning the claim or the right of security shall be disregarded at the meeting for the defence of claims, except in the case specified in subsection 106 (2) of this Act.

(6) The minutes of a meeting for the defence of claims shall set out whether or not each separate claim or the right of security securing the claim was accepted and who objected to the claim, its ranking or the right of security securing the claim. The minutes shall also indicate who waived an objection filed.

(7) A list shall be prepared of accepted claims. The list shall indicate the extent to which a claim is satisfied, the ranking assigned to the claim and whether the claim is secured by a right of security. The list shall be signed by the chair of the bankruptcy committee and all the creditors present. If the chair of the bankruptcy committee or a creditor present refuses to sign the list, a corresponding notation shall be made in the list.

(8) If the claim of a creditor is not accepted and the creditor does not file an action for the acceptance of the claim or the court dismisses the action, the objections of the creditor to the claims of another creditor shall be disregarded. Unless there are any other objections to the claim of the other creditor, the claim is deemed to be accepted.

§ 104. Objections of debtor

(1) Objections to claims or rights of security securing the claims may be filed also by the debtor not later than at the meeting for the defence of claims. An objection filed by the debtor shall not hinder acceptance of the claim or the right of security securing the claim but in such case the ruling stating the accepted claims does not have the effect of an execution document, within the meaning of § 168, with regard to the claim against which the debtor filed the objection.

(2) If a creditor wishes the ruling stating the accepted claims to have the effect of an execution document, the creditor may file an action against the debtor for the acceptance of the claim or the right of security against which the debtor has filed an objection. The limitation period for an action against the debtor for the acceptance of a claim is three years as of the meeting for the defence of claims at which the debtor filed the objection to the claim.

(3) In the case the debtor files an objection against a public law claim, the administrative act from which the public law claim arises shall have the effect of an execution document if the debtor does not file an appeal with an administrative court within one month as of filing the objection.

(4) The expenses incurred by the debtor in connection with filing an appeal specified in subsection (3) of this section, shall not be covered out of the bankruptcy estate. In the case of a debtor who is a legal person, a member of the management board or of a substituting body thereof shall be liable for the expenses solidarily with the debtor.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 105. Effect of acceptance of claims

A claim or its ranking accepted at a meeting for the defence of claims shall not be subsequently disputed except in the case specified in subsection 106 (2) of this Act.

§ 106. Dispute over acceptance of claims

(1) If a claim, its ranking or the right of security securing the claim is not accepted at a meeting for the defence of claims, the acceptance thereof shall be decided by the court on the basis of an action filed by the creditor. If the objection against the claim or right of security was filed by the trustee, the trustee is the defendant who has all the rights and obligations of the debtor as the defendant. If the objection against the claim, its ranking or the right of security was filed by a creditor, the creditor is the defendant. The action may be filed within one month as of the date when the meeting refused to accept the claim or the right of security.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If it becomes evident that acceptance of a claim or a right of security was based on falsified information or if a material violation of law occurs upon calling or holding a meeting for the defence of claims, the acceptance of the claim or right of security shall be reviewed at another meeting for the defence of claims at the request of the creditor, debtor or trustee.

(3) If a meeting for the defence of claims fails to review the acceptance of a claim or right of security within one month after submission of the request for review, the acceptance of the claim or right of security shall be decided by the court on the basis of an action of the creditor, debtor or trustee. The action may be filed within one month as of the day on which one month has passed since submission of the request for calling a new meeting. If the trustee notifies of the refusal to call a new meeting before one month has passed since submission of the request, the term of one month shall commence as of the refusal. The creditor the acceptance of whose claim or right of security has been disputed shall be the defendant in the action.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) Hearing of disputes relating to acceptance of claims is within the jurisdiction of the court hearing the bankruptcy matter.

§ 107. Content of request for acceptance

A creditor may request acceptance of a claim in court only on the same basis as and to the extent not exceeding the claim which the creditor filed for defence at a meeting for the defence of claims.

Chapter 6
FORMATION OF BANKRUPTCY ESTATE

§ 108. Definition of bankruptcy estate

(1) The assets of a debtor become the bankruptcy estate on the basis of the bankruptcy ruling and are used as assets designated for satisfying the claims of the creditors and conducting the bankruptcy proceedings.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) The bankruptcy estate means the assets of the debtor at the time of the declaration of bankruptcy, the assets reclaimed or recovered and the assets acquired by the debtor during the bankruptcy proceedings.

(3) The debtor's assets which pursuant to law are not subject to a claim shall not be included in the bankruptcy estate.

§ 109. Definition of recovery

(1) In recovery, the court shall, on a basis provided for in §§ 110–114 of this Act, revoke transactions which were concluded or other acts which were performed by the debtor before the declaration of bankruptcy and which damage the interests of the creditors.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If a transaction subject to recovery is concluded or any other act subject to recovery is performed during the period from the appointment of an interim trustee until declaration of bankruptcy, the transaction or act is deemed to damage the interests of the creditors. The provisions of this subsection do not apply to the provision of financial collateral and disposal of objects of financial collateral provided for in § $314^{1}$of the Law of Property Act, or the netting performed through a payment system specified in subsection 87 (2) of the Credit Institutions Act and through a securities settlement system or a linked system specified in subsections 213 (1) and 213^{1}(1) of the Securities Market Act.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

(3) For the purposes of this Chapter, disposal of an object in execution proceedings is also deemed to be a transaction.

§ 110. General bases for recovery of transactions

(1) A court shall revoke transactions concluded:
1) during the period from the appointment of an interim trustee until declaration of bankruptcy;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
2) within one year before the appointment of an interim trustee if the other party knew or should have known that the transaction damages the interests of the creditors;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
3) before commencement of the term specified in clause 2) of this subsection if the transaction was concluded within three years before the appointment of an interim trustee and the debtor intentionally damaged the interests of the creditors by the transaction and the other party to the transaction knew or should have known that the debtor damaged the interests of the creditors by the transaction;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
4) within five years before the appointment of an interim trustee if the debtor intentionally damaged the interests of the creditors by the transaction and the other party to the transaction was a person connected with the debtor and knew or should have known of the damage.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) If a transaction was concluded within six months before the appointment of an interim trustee, the other party to the transaction is presumed to have known that the debtor damaged the interests of the creditors by the transaction.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A person connected with a debtor is presumed to know that the debtor intentionally damaged the interests of the creditors by a transaction.

(4) A derivative transaction specified in subsection 48 (1) of this Act shall not be recovered unless it is obvious that the only purpose of the derivative transaction was to injure other creditors and the counterparty to the transaction was aware thereof and the derivative transaction was made within one year before the appointment of an interim trustee.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 111. Recovery of gratuitous contract

(1) A court shall revoke a gratuitous contract if the contract was entered into:
1) within one year before the appointment of an interim trustee or during the period from the appointment of an interim trustee until declaration of bankruptcy;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
2) before the beginning of the term specified in clause 1) of this subsection but within five years before the appointment of an interim trustee if the donee was a person connected with the debtor, unless the donee or the debtor proves that the debtor was solvent at the time of entry into the contract and did not become insolvent due to the entry into the gratuitous contract.

[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) If a gratuitous contract was entered into within one year before the appointment of an interim trustee, the contract is presumed to have damaged the interests of the creditors.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(3) A court may revoke a contract of sale, barter agreement or any other contract on the bases provided for in subsection (1) of this section if due to a disparity in the obligations of the parties it is evident that the contract had even partly the nature of a gratuitous contract.

(4) Benefits and customary gifts which correspond to the financial situation of a debtor are not subject to recovery.

§ 112. Recovery of division of joint property

A court shall revoke the marital property contract between a debtor and his or her spouse or the agreement on the division of their joint property whereby the debtor assigned his or her assets or share in the joint property to a material extent, if the marriage contract or the agreement on the division of joint property was entered into:
1) within one year before the appointment of an interim trustee or during the period from the appointment of an interim trustee until declaration of bankruptcy;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
2) before commencement of the term specified in clause 1) of this section but within five years before the appointment of an interim trustee unless the debtor or his or her spouse proves that the debtor was solvent at the time of dividing the property or assigning the assets and did not become insolvent due to division of the joint property or assignment of the assets.

§ 113. Recovery of performance of financial obligations

(1) A court shall revoke the performance of a financial obligation to the benefit of a creditor if the obligation was performed:
1) during the period from the appointment of an interim trustee until declaration of bankruptcy;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
2) within three months before the appointment of an interim trustee if the obligation was performed by unusual means of payment or before the due date for performance or in preference of one creditor to another or if the debtor was insolvent at the time of the performance and the creditor was or should have been aware of the insolvency;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
3) within two years before the appointment of an interim trustee to the benefit of a person connected with the debtor unless the person or the debtor proves that the debtor was solvent at the time of the performance and did not become insolvent due to the performance of the obligation.

(2) A person connected with a debtor is presumed to be aware of the debtor's insolvency.

§ 114. Recovery of security

(1) A court shall revoke the grant of security if the security was granted:
1) during the period from the appointment of an interim trustee until declaration of bankruptcy;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
2) in order to secure an obligation which had arisen within six months before the appointment of an interim trustee if the debtor was not required to grant such security at the time when the obligation arose or if the debtor was insolvent at the time of granting the security and the person in whose favour the security was granted was or should have been aware of the insolvency;
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
3) within two years before the appointment of an interim trustee if the security was granted in favour of a person connected with the debtor unless the person or the debtor proves that the debtor was solvent at the time of granting the security.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) Grant of security shall not be recovered if the security was granted in order to secure a loan or any other credit agreement and after granting the security the debtor came into possession of the amount of money corresponding to the value of the security pursuant to the secured contract, except in the case specified in clause (1) 3) of this section.

(3) A person connected with a debtor is presumed to be aware of the debtor's insolvency.

(4) Transactions concluded for the exercise of rights or performance of obligations arising from a financial collateral arrangement specified in § 314^1 of the Law of Property Act and the collateral established to secure the derivative transaction specified in subsection 48 (1) of this Act shall not be recovered.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 115. Application of provisions on recovery to transactions with immovables

Transactions which after declaration of bankruptcy are concluded with immovables, ships entered in the ship register or securities included in the bankruptcy estate and are valid pursuant to subsection 56 (1) of the Law of Property Act, subsection 7 (1) of the Law of Maritime Property Act or subsection 9 (2) of the Estonian Central Register of Securities Act may be revoked pursuant to the provisions on recovery on the same basis as transactions concluded during the period from the appointment of an interim trustee until declaration of bankruptcy.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

§ 116. Recovery in respect of legal successors

(1) A claim for recovery may be filed also against the universal successor of the person who concluded the transaction or performed the act to be recovered.

(2) A claim for recovery may be filed against a singular successor of a party to a transaction concluded by a debtor if:
1) at the time of acquiring the assets, the singular successor was aware of the circumstances on the basis of which the transaction or act of the debtor was subject to recovery;
2) the assets received were acquired by the singular successor free of charge.

(3) If a singular successor specified in subsection (2) of this section was connected with the debtor at the time of the acquisition, the successor is presumed to have been aware of the circumstances on the basis of which the transaction of the debtor was subject to recovery.

(4) A claim for recovery may be filed on the bases specified in subsection (2) of this section also against a person who has acquired a right of use or any other right to the recoverable object from a singular successor of a party to a transaction concluded by a debtor.

§ 117. Persons connected with debtor

(1) The following persons are deemed to be connected with a debtor who is a natural person:
1) the spouse of the debtor even if the marriage was contracted after the conclusion of the transaction subject to recovery, and the former spouse of the debtor if the marriage was divorced within one year before the conclusion of the transaction;
2) persons who live in a shared household with the debtor or who lived in a shared household with the debtor during the year preceding the conclusion of the transaction subject to recovery;
3) the debtor's ascendants and descendants and their spouses;
4) the debtor's sisters and brothers and their descendants and spouses;
5) the ascendants, descendants, brothers and sisters of the debtor's spouse.

(2) The following persons are deemed to be connected with a debtor who is a legal person:
1) the members of the management bodies, the liquidator, procurator and the person responsible for the accounting of the legal person;
2) the shareholders of the legal person who hold more than one-tenth of the votes determined by shares;
3) such partner or member in the legal person who is liable for the obligations of the debtor additionally with his or her assets;
4) the subsidiaries of the company and the members of the management bodies of the subsidiaries;
5) natural and legal persons who share significant economic interests with the debtor;
6) the persons connected with the persons specified in clauses 1)–4) of this subsection as specified in subsection (1) of this section.

(3) A court may consider a person close to a debtor but not specified in subsection (1) or (2) of this section to be connected with the debtor.

§ 118. Recovery procedure

(1) Recovery is effected by filing an action with a court. A claim for recovery shall be filed by the trustee.

(2) The limitation period for a claim for recovery is three years after the declaration of bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 119. Consequences of recovery of assets

(1) If a court revokes a transaction by way of recovery procedure, the other party is required to return the proceeds of the transaction to the bankruptcy estate together with the fruits and other gain.

(1[1]) The provisions of this section concerning the consequences of the recovery of transactions apply correspondingly to the consequences of the recovery of obligations.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) In the case specified in subsection (1) of this section, the other party who was or should have been aware of the circumstances which were the basis for recovery shall compensate for the gain which could have been received for the recovered items in adherence to the rules of regular management but was not received due to the fault of the party.

(3) If the proceeds of a recovered transaction are destroyed or damaged or cannot be returned for any other reason, the other party shall compensate for the value or the decrease in the value thereof if the party was or should have been aware of the circumstances on which recovery was based.

(4) If the other party to a recovered transaction has transferred something to the debtor on the basis of the transaction, it shall be returned to the party or, if return is impossible, the value of that which was transferred shall be compensated for pursuant to subsection 146 (1) of this Act.

(5) If the other party to a transaction knew or should have known at the time of entry into the transaction that the transaction damages the interests of other creditors, the other party may demand compensation for that which was transferred to the debtor only as a creditor in the bankruptcy proceedings. In such case, the other party's claim for compensation is deemed to be accepted and shall be satisfied in the same ranking as the claims specified in clause 153 (1) 3) of this Act.

(6) The claims specified in subsection (4) or (5) of this section may be filed within six months after the entry into force of the court judgment on the basis of which assets were recovered from the other party to the transaction by way of recovery procedure or, if the other party transferred the assets subject to recovery to the bankruptcy estate without a court judgment, as of the date of the transfer.

§ 120. Estate

(1) If a debtor has the right to receive an estate or legacy after the declaration of bankruptcy, the acceptance or waiver of the estate or legacy shall be decided only by the debtor.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 121. Termination of common ownership, community or civil law partnership

(1) If a debtor is a co-owner of or a partner with regard to a thing or owns a common right together with a third person, the trustee may demand that the common ownership, partnership or community be terminated and the assets be divided. The share retained by the debtor as a result of the division shall be included in the bankruptcy estate.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) Agreements which preclude or restrict termination of common ownership, civil law partnership or community or determine a term for cancellation with regard to the termination do not apply in bankruptcy proceedings.

§ 122. Division of joint property

(1) If assets are in the joint ownership of a debtor and his or her spouse, the trustee shall claim division of the joint property and the share of the debtor in the joint ownership. The debtor has the right to participate in the proceedings together with the trustee. As a party to the proceedings, the debtor has the right to give statements only.

(2) A trustee may file an action for the division of joint property within one year as of the declaration of bankruptcy.

(3) If a trustee does not file an action for claiming the debtor's share in joint property for the bankruptcy estate within the term specified in subsection (2) of this section, the debtor may file the action himself or herself and participate in the hearing of the matter as the plaintiff. If the debtor files the action during the bankruptcy proceedings, the debtor shall notify the trustee thereof.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) If a trustee includes assets which are in the joint ownership of the debtor and his or her spouse in the bankruptcy estate, the spouse of the debtor may file an action for dividing the joint property and excluding his or her share from the bankruptcy estate. The debtor has the right to participate in the proceedings together with the trustee. As a party to the proceedings, the debtor has the right to give statements only.

(5) An action for the division of joint property specified in subsection (4) of this section may be filed within six months as of the time when the spouse of the debtor became or should have become aware of inclusion of the joint property in the bankruptcy estate.

§ 123. Exclusion of assets from bankruptcy estate

(1) Objects belonging to third persons shall not be included in a bankruptcy estate. If a third person has a claim for the return of an object belonging to the person, the trustee shall return the object (exclusion of property). The person claiming the exclusion of the property is not deemed to be a creditor in the bankruptcy proceedings as regards the claim for exclusion.

(2) A trustee shall ensure that property be preserved until the return thereof.

(3) An application for exclusion of property shall be submitted to the trustee unless otherwise provided by law.

(4) If a trustee transfers the property specified in subsection (1) of this section or if the property is not preserved, the person having the right for exclusion has the right to receive compensation in money for the property out of the bankruptcy estate pursuant to the procedure provided for in clause 146 (1) 1) of this Act. If the trustee transfers the property specified in subsection (1) of this section although he or she knows or should know that the property does not belong to the debtor, or if the property is not preserved due to the fault of the trustee, the entitled person may claim compensation for the damage also from the trustee.

(5) If a debtor sells the property specified in subsection (1) of this section before the declaration of the bankruptcy of the debtor and the person having the right of exclusion does not have a claim for restitution against the person who acquired the property, the person with the right of exclusion has the right to demand that:
1) the claim for payment of the selling price be assigned to the person unless the person acquiring the property has already paid the price, or
2) the proceeds of the transfer be paid out of the bankruptcy estate if the selling price was paid after the declaration of bankruptcy, or
3) the person be permitted to participate in the bankruptcy proceedings as a creditor if the selling price was paid to the debtor before the declaration of bankruptcy.

(6) The limitation period for claims for exclusion of property and claims for compensation is one year as of the publication of the bankruptcy notice or, if the right of claim arises later, one year as of the time when the right arose.

Chapter 7
ADMINISTRATION OF BANKRUPTCY ESTATE

§ 124. Definition of administration of bankruptcy estate

(1) A trustee shall take possession of the property of the debtor and commence administration of the bankruptcy estate immediately after the bankruptcy ruling is made. The trustee shall reclaim the property of the debtor which is in the possession of third persons for the bankruptcy estate unless otherwise provided by law.
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Administration of a bankruptcy estate comprises performance of acts with the bankruptcy estate which are necessary for preserving the bankruptcy estate and conducting the bankruptcy proceedings, and management of the activities of the debtor if the debtor is a legal person, or organisation of the business activities of the debtor if the debtor is a sole proprietor.

(3) In the bankruptcy proceedings of a debtor who is a legal person, the trustee has such rights and obligations of the management board or of the body substituting for the management board of the legal person which are not contrary to the objective of the bankruptcy proceedings. The liability of the trustee shall be equal to the liability of the members of the management body.

(4) A trustee may conclude a transaction with bankruptcy estate in cash only with the permission of the court. A trustee shall deposit the cash received for the bankruptcy estate within two working days after the receipt of the cash. If there are safe conditions for keeping cash, the trustee may, with the permission of the court, keep up to 1280 euros of the bankruptcy estate in cash. A trustee shall not make payments to the creditors in cash on the basis of the distribution ratio.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 125. Prohibited transactions and transactions requiring consent of bankruptcy committee

(1) A trustee shall not conclude transactions with himself or herself or with persons related to him or her using the bankruptcy estate or a share thereof or conclude any other transactions of similar nature or involving a conflict of interest or request reimbursement of the expenses incurred in such transactions pursuant to § 66 of this Act.

(2) Persons related to a trustee include:
1) the spouse of the trustee, and the former spouse of the trustee if the marriage was divorced within one year before the conclusion of the transaction;
2) persons who live in a shared household with the trustee or who lived in a shared household with the trustee during the year preceding the conclusion of the transaction;
3) ascendants and descendants of the trustee and their spouses, sisters, brothers of the trustee, the ascendants and descendants and sisters and brothers of the trustee's spouse and of the person specified in clause 2) of this subsection;
4) a legal person the shares of which belong either wholly or partially to the trustee or the persons specified in clauses 1) – 3) of this subsection or to whose management body the trustee belongs or with whom the trustee has entered into an employment contract.

(3) A trustee may conclude transactions with special relevance to the bankruptcy proceedings only with the consent of the bankruptcy committee.

(4) Borrowing, above all, is deemed to be a transaction with special relevance specified in subsection (3) of this section. If the bankruptcy estate includes an enterprise the activities of which continue after the declaration of bankruptcy, all transactions outside the regular business activities of the enterprise are also deemed to be transactions with special relevance.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 126. Inventory of bankruptcy estate

(1) After declaration of bankruptcy, the trustee shall prepare an inventory of the bankruptcy estate indicating the composition and value of the assets, including the debtor's debts and claims by category.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) The value of each object included in the bankruptcy estate shall be indicated. If the bankruptcy estate includes an enterprise, the estimated value of the enterprise or a part thereof in the event of continuation of the activities of the enterprise or transfer of the enterprise or a part thereof as a set of assets shall be assessed in addition to the value of the objects belonging to the enterprise.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) An inventory shall set out separately the assets which third persons demand or may demand to be excluded from the bankruptcy estate, and assets in the joint ownership of the debtor and his or her spouse.

(4) An inventory shall set out the names and seats or residences of all known creditors and the bases and sizes of their claims. The inventory shall set out separately whether and which of the claims are secured by the debtor's assets.

(5) An inventory shall set out the possibilities for setting off claims.

(6) A trustee shall submit an inventory of the bankruptcy estate to the first general meeting of creditors, to the court and the bankruptcy committee and present the inventory to each creditor for examination at the request thereof. The trustee shall present the inventory to the debtor for examination.

§ 127. Trustee's report at first general meeting of creditors

(1) At the first general meeting of creditors, the trustee shall present a report on the financial situation and the reasons for the insolvency of the debtor. The report shall be appended to the minutes of the meeting.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If the bankruptcy estate includes an enterprise, the report of the trustee shall, in addition to that provided for in subsection (1) of this section, set out the possibilities for rehabilitating the enterprise of the debtor and reaching a compromise. The trustee shall also ascertain the opportunities for satisfying the claims of the creditors in the event of rehabilitating the enterprise, making a compromise or selling the bankruptcy estate. The trustee shall assess the sizes of the consolidated obligations and the costs of the bankruptcy proceedings in the event of the immediate sale of the bankruptcy estate.

§ 128. Organisation of accounting of debtor

(1) If a debtor is an accounting entity, the trustee shall be liable for organising the accounting of the debtor.

(2) As of declaration of bankruptcy, a new financial year begins. The term for submitting the annual report for the previous financial year to the registrar commences as of the declaration of bankruptcy.

(3) An auditor may be appointed for auditing the annual report of the financial year preceding the declaration of bankruptcy by the court on the proposal of the trustee. The costs of the audit are deemed to be a consolidated obligation.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) An auditor for the annual report specified in subsection (2) of this section may be appointed by the court on the proposal of the trustee.

§ 129. Deciding on rehabilitation or termination of activities of enterprise

(1) If a bankruptcy estate includes an enterprise, the trustee shall prepare a plan for continuing the activities of the enterprise (rehabilitation plan) or make a proposal for terminating the activities of the enterprise.

(2) The measures required for the rehabilitation of an enterprise shall be prescribed in a rehabilitation plan. The rehabilitation plan shall also set out whether it would be expedient to make a compromise.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) A trustee shall present the rehabilitation plan for approval or the proposal for terminating the activities of the enterprise to the first general meeting of creditors.

(4) A general meeting shall either approve the rehabilitation plan submitted by the trustee or decide that the activities of the enterprise be terminated. The general meeting may make a proposal to the trustee to submit a new rehabilitation plan or submit a rehabilitation plan instead of the proposal for terminating the activities of the enterprise.

(5) If a general meeting of creditors finds that rehabilitation has failed regardless of the rehabilitation plan, the general meeting may decide that the activities of the enterprise be terminated.

(6) A trustee shall submit a decision on termination of the activities of an enterprise to the court for approval immediately. The court shall decide on the approval of the decision by a ruling within fifteen days after submission of the decision to the court. The court shall not approve the decision on termination of the activities of the enterprise if the procedure for organising the general meetings of creditors or for adoption of decisions has been violated.

(7) If a general meeting of creditors decides to terminate the debtor who is a legal person concurrently with termination of the activities of the enterprise, the trustee shall submit the decision of the general meeting to the court for approval pursuant to the procedure provided for in subsection 130 (2) of this Act.

(8) If it is more expedient to sell an enterprise as a set of assets in bankruptcy proceedings, the general meeting, on the proposal of the trustee, may decide that the activities of the enterprise be continued until the sale of the enterprise.

§ 130. Dissolution and liquidation of legal person

(1) If a general meeting of creditors decides to terminate the activities of an enterprise of the debtor who is a legal person, the meeting shall also decide on dissolution of the legal person.

(2) A trustee shall immediately submit a decision to dissolve a legal person to the court for approval. The court shall decide on the approval of the decision by a ruling within 15 days after submission of the decision to the court. The court shall not approve the decision to terminate the legal person if the procedure for organising the general meetings of creditors or for adoption of decisions has been violated. If the decision of the general meeting is approved, the legal person is deemed to be dissolved as of the adoption of the decision on dissolution.

(3) If a legal person is dissolved in the course of bankruptcy proceedings, the liquidation of the legal person shall be conducted by the trustee. Liquidation shall be commenced or the liquidation commenced before the appointment of an interim trustee shall be continued by the trustee after the court ruling approving the decision to terminate the activities of the enterprise and dissolve the legal person has been made. Liquidation shall be completed by the end of the bankruptcy proceedings.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(4) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) In the event of liquidation of a legal person, the trustee in bankruptcy shall prescribe the funds for preservation of the documents prepared or received as a result of the activities of the person and shall be responsible for preservation of the documents until they have been transferred to a person providing custody services or to an archive.

(6) A legal person shall not be liquidated regardless of the decision to dissolve the legal person if:
1) the bankruptcy proceedings are terminated due to a compromise;
2) the bankruptcy proceedings are terminated on the basis provided for in § 159 of this Act;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
3) the bankruptcy proceedings are terminated on the basis provided for in § 160 of this Act in the case the debtor is not permanently insolvent.

[RT I 2009, 68, 463 - entry into force 01.01.2010]

(7) A court shall decide not to dissolve a legal person and shall make a corresponding ruling on the proposal of the trustee on the bases provided for in clauses (6) 1) and 3) of this section or on the proposal of the debtor on the basis provided for in clause (6) 2) of this section.

(8) If the bankruptcy proceedings are terminated on the basis provided for in § 160 of this Act and the debtor who is a legal person is permanently insolvent, the debtor shall be liquidated.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 131. Termination of activities of enterprise before first general meeting

(1) If continuation of the activities of an enterprise of a debtor until the first general meeting of creditors is evidently harmful to the creditors, especially, if it results in a material decrease in the bankruptcy estate, the trustee may terminate the activities of the enterprise of the debtor also before the first general meeting of creditors with the consent of the court. The trustee shall submit the reasoned application for termination of the activities of the enterprise to the court. The court shall adjudicate the application by a ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) In order to decide on termination of the activities of an enterprise the opportunities to rehabilitate the enterprise and the possible decrease in the value of the enterprise as a result of immediate termination of the activities of the undertaking, above all, shall be taken into consideration.

(3) Before submitting an application for termination of the activities of an enterprise, a trustee shall notify the debtor of the intention to terminate the activities of the enterprise and shall hear the opinion of the debtor if it can be heard without delay.

(4) A general meeting of creditors may decide in favour of continuation of the activities of an enterprise also if the court has satisfied the application submitted by the trustee for termination of the activities of the enterprise.

§ 132. Trustee's report on bankruptcy estate

(1) A trustee shall submit a report to the court and the bankruptcy committee setting out the following:
1) the reason for the insolvency and the time the debtor became insolvent;
2) information concerning opportunities for recovery of assets;
3) an opinion on the existence of criminal elements relating to the bankruptcy and information concerning the notification given of the criminal offence;
4) other circumstances relevant to the bankruptcy proceedings.

(2) If a debtor is an accounting entity, the trustee shall annex the last annual accounts prepared by the debtor to the report.

(3) A trustee shall submit the report after ascertaining the facts specified in subsection (1) of this section but not later than three months after the declaration of bankruptcy. The court may extend the term for submitting the report with good reason.

(4) A trustee shall present the report for examination to each creditor at his or her request.

Chapter 8
SALE OF BANKRUPTCY ESTATE

§ 133. General principles of sale of assets

(1) A trustee may commence the sale of the bankruptcy estate after the first general meeting of creditors unless the creditors have decided otherwise at the meeting.

(2) If a debtor appeals the bankruptcy ruling, the debtor's assets shall not be sold without the consent of the debtor before the hearing of the appeal filed with the circuit court.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(3) The restrictions specified in subsections (1) and (2) of this section do not apply to the sale of assets which are highly perishable, depreciates rapidly in value or is excessively expensive to store or preserve.

(4) If the activities of an enterprise of the debtor continue, the assets shall not be sold if this hinders continuation of the activities of the enterprise.

§ 134. Sale of assets in case of compromise proposal

(1) If a proposal for compromise is submitted, assets shall not be sold before the compromise has been made unless the general meeting of creditors decides that the assets may be sold regardless of the compromise proposal.

(2) Regardless of the provisions of subsection (1) of this section, assets may be sold if the sale of the assets is in accordance with the proposal for compromise or if the assets meet the criteria specified in subsection 133 (3) of this Act.

§ 135. Procedure for sale of assets

(1) A trustee shall sell the bankruptcy estate pursuant to the procedure provided for in the Code of Enforcement Procedure taking into account the specifications prescribed by this Act.

(2) With the consent of the trustee, a debtor who is a natural person may sell the immovables or rights included in the bankruptcy estate himself or herself. After selling the assets, the debtor shall submit a report on the proceeds of the sale to the trustee.

(3) The trustee shall decide on the order in which assets are sold.

§ 136. Sale of assets at auctions

(1) Bankruptcy estate is sold by auction pursuant to the procedure provided by the Code of Enforcement Procedure unless otherwise provided by this Act.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) The starting price of assets shall be determined by the trustee and approved by the bankruptcy committee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) At a repeated auction, a trustee may reduce the starting price of the assets by 50 per cent. The starting price may be further reduced only with the consent of the bankruptcy committee.

(4) A trustee shall prepare a report on an auction. The format of the report shall be established by the Minister of Justice.

§ 137. Sale of assets without auction in more profitable manner

(1) A general meeting of creditors may require the trustee by a precept to sell the assets without an auction if the sale of assets in another manner is more profitable.

(2) If a general meeting does not issue a precept specified in subsection (1) of this section to the trustee but the trustee finds that sale of the bankruptcy estate without an auction would be more profitable, the estate may be sold without an auction in a more profitable manner with the consent of the bankruptcy committee.

§ 138. Specifications concerning sale of objects encumbered with security over movables

(1) With the consent of the trustee, a pledgee may sell the object of a security over movables. A pledgee who sells assets shall submit a report concerning the proceeds of the sale to the trustee.

(2) If a trustee intends to sell the object of security over movables in any other manner than by auction, the trustee shall notify the pledgee of the intention and of the manner of the sale. Unless the pledgee subsequently notifies the trustee within seven days of an opportunity to sell the pledged object in a more profitable manner, the trustee may sell the pledged object in the manner intended.

(3) If a pledgee notifies a trustee of an opportunity specified in subsection (2) of this section but a contract for the sale of the pledged object is not entered into or the selling price is not paid within three days as of notification of the opportunity, the trustee may sell the pledged object in the manner intended.

(4) If the object of security over movables is sold, the right of security terminates.

(5) The provisions of subsections (1)–(3) of this section do not apply if an enterprise or an organisationally independent part of an enterprise encumbered with a commercial pledge is sold as a set of assets.

§ 139. Sale of immovables encumbered with mortgage

(1) [Repealed – RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If a trustee sells an immovable included in the bankruptcy estate at an auction, only such rights encumbering the immovable which have a ranking higher than the right which was entered first in the land register and according to which forced sale of the immovable may be demanded remain in force. The rest of the rights encumbering the immovable which are entered in the land register are deemed to have extinguished.

(3) The rights entered in the land register which have the same ranking as the right which was entered first in the land register and according to which forced sale of the immovable may be demanded remain in force only if forced sale of the immovable cannot be demanded according to such rights.

(4) The rights encumbering an immovable which are deemed to have extinguished pursuant to subsection (2) of this section shall be deleted from the land register on the basis of an application of the trustee. The report on the auction shall be annexed to the application. The consent of the person concerned is not necessary for deletion.

(5) If the sale of an immovable at an auction fails, the rights encumbering the immovable shall be deleted only with the consent of the holders of the rights. If a mortgagee or the holder of a real encumbrance refuses to grant the consent, the mortgagee or the holder loses the right to demand satisfaction of a claim in the bankruptcy proceedings to the part secured by the mortgage or real encumbrance. In such case, a claim secured by the mortgage or arising from the real encumbrance may be invoked with regard to the person who acquired the immovable to the extent to which the claim was accepted in the bankruptcy proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 140. Term for sale of objects encumbered with pledge

If an object included in the bankruptcy estate is encumbered with a right of security or any other real right which grants to a creditor the right to demand forced sale of the encumbered object, the trustee shall sell the encumbered object within three months or, if the encumbered object is an immovable, within four months as of the time when the trustee was entitled to commence the sale of the bankruptcy estate taking into account the provisions of § 133 and §134.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 141. Sale of enterprise

(1) A trustee may sell an enterprise or an organisationally independent part of an enterprise only with the consent of the bankruptcy committee.

(2) An enterprise or an organisationally independent part of an enterprise may be sold without an auction only with the consent of the general meeting of creditors if the person acquiring the enterprise or the person who directly or indirectly holds more than one-fifth of the participating interest in the legal person acquiring the undertaking is:
[RT I 2009, 68, 463 - entry into force 01.01.2010]
1) a person connected with the debtor;
2) a creditor whose claims are estimated to constitute more than one-fifth of the total amount of the claims filed in the bankruptcy proceedings.

§ 142. Validity of transactions

Violation of the provisions of §137 or §141 of this Act does not result in the nullity of the corresponding transaction.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

Chapter 9
PAYMENTS FROM BANKRUPTCY ESTATE

§ 143. Distribution proposal

(1) After the last meeting for the defence of claims, the trustee shall prepare a distribution proposal which shall set out:
1) the accepted claims, their rankings and the distribution ratios;
2) if the distribution proposal is submitted pursuant to the procedure provided for in subsection 144 (1) of this Act, information concerning the claims the acceptance of which is disputed in court, setting out the estimated distribution ratios taking into account the size and ranking of each creditor's claim according to the statement of claim;
3) information concerning the payments specified in subsection 146 (1) of this Act and concerning deposits of money in credit institutions;
4) information concerning the proceeds of the sale of each pledged object;
5) information concerning the assets which have been received for the bankruptcy estate and are subject to distribution;
6) information concerning the unsold part of the bankruptcy estate and the assets which the debtor is to receive from other persons.

(2) A trustee shall submit a distribution proposal to the court and the bankruptcy committee within sixty days as of the last meeting for the defence of claims. At the request of the trustee, the court may extend the term for submitting the distribution proposal.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) If disputes concerning claims or their rankings are subject to court hearing, the trustee shall submit the distribution proposal immediately after adjudication of the disputes.

(4) If a claim secured by a pledge is accepted in bankruptcy proceedings, the trustee shall not prepare the distribution proposal before the pledged object has been sold.

(5) A trustee shall publish a notice in the official publication *Ametlikud Teadaanded*setting out the information concerning the time and place for examining the distribution proposal and indicating that the debtor or a creditor may file objections with the court within ten days after publication of the notice.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 144. Preliminary distribution proposal

(1) If money for making the payments specified in subsection 146 (1) of this Act and payments to creditors on the basis of distribution ratios has been received from the sale of the bankruptcy estate, the trustee may submit a distribution proposal to the court and the bankruptcy committee before the end of all disputes concerning the claims or their rankings with the consent of the bankruptcy committee (preliminary distribution proposal).

(2) If the distribution ratios established at the end of the disputes concerning the claims or their rankings are different than the distribution ratios set out in the last preliminary distribution proposal approved by the court, the trustee is required to submit a new distribution proposal to the court and the bankruptcy committee before new payments are made to the creditors.

(3) The provisions of subsections 143 (1) and (5) and § 145 of this Act apply to preliminary distribution proposals, respectively.

§ 145. Approval of distribution proposals

(1) A court shall decide on the approval of a distribution proposal by a ruling within ten days after the expiry of the term for filing objections.

(2) A court shall refuse to approve a distribution proposal and return the proposal to the trustee by a ruling if it is evident from the proposal that the rights of the debtor or the creditors have been violated in the bankruptcy proceedings. The trustee shall submit a new distribution proposal within 20 days as of the delivery of the court ruling to the trustee.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(3) The trustee may file an appeal against a ruling by which the court has refused to approve a distribution proposal. If a circuit court denies an appeal against a ruling, the trustee shall submit a new distribution proposal within 20 days as of the delivery of the ruling of a circuit court to the trustee. If a circuit court satisfies an appeal against a ruling, the distribution proposal shall be sent to the county court for deciding on approval thereof.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) The debtor or the creditor who filed an objection to the distribution proposal may file an appeal against a ruling by which the court has approved a distribution proposal. Appeals may be filed against the circuit court ruling on the appeal against the ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) A court shall publish a notice concerning a ruling on approval or refusal to approve a distribution proposal in the official publication *Ametlikud Teadaanded*and shall send the ruling to the trustee, the debtor and the creditor who filed an objection.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 146. Payments relating to bankruptcy proceedings

(1) Before payment of money on the basis of distribution ratios, payments relating to the bankruptcy proceedings shall be made out of the bankruptcy estate in the following order:
1) claims arising from the consequences of exclusion or recovery of assets;
2) the maintenance support paid to the debtor and his or her dependants;
3) consolidated obligations;
4) the costs of the bankruptcy proceedings.

(2) If the assets subject to distribution are not sufficient for the satisfaction of all the claims with the same ranking, payments shall be made in proportion to the sizes of the corresponding claims.

§ 147. Payment of maintenance support

(1) If a debtor who is a natural person is deprived of his or her means of support due to bankruptcy, the court shall order payment of necessary support to the debtor and his or her dependants out of the bankruptcy estate for up to two months on the basis of an application of the debtor. The court may extend such term with good reason.

(2) An application specified in subsection (1) of this section may be filed also by a person whom a debtor is required to maintain pursuant to law.

§ 148. Consolidated obligations

(1) Consolidated obligations are:
1) obligations arising from transactions and other acts performed by a trustee in the performance of his or her duties in the bankruptcy proceedings;
2) obligations arising from contracts which the debtor has failed to perform, if the trustee has continued performance of the obligations or given notification that he or she intends to require performance of the contract;
3) taxes relating to continuation of the business activities of the debtor;
4) obligations to compensate for the damage caused during the bankruptcy proceedings by an unlawful action of a debtor who is a legal person;
5) other obligations deemed to be consolidated obligations pursuant to this Act.

(2) If a bankruptcy estate is not sufficient for the performance of a consolidated obligation, the trustee is required to compensate for the damage caused to the creditor if the trustee foresaw or should have foreseen upon entry into the transaction or continuation of the performance of the transaction that the bankruptcy estate was not sufficient for the performance of the consolidated obligation but failed to give notification to the corresponding creditor.

§ 149. Performance of consolidated obligations

(1) Performance of consolidated obligations may be required from the debtor during the bankruptcy proceedings pursuant to the general procedure. Execution proceedings may be conducted with regard to the bankruptcy estate in order to perform a consolidated obligation.

(2) If a consolidated obligation arises on a basis specified in clause 148 (1) 2) of this Act, execution proceedings for the performance of the consolidated obligation shall not be conducted within six months as of the declaration of bankruptcy.

(3) The prohibition provided for in subsection (2) of this section does not apply to:
1) claims arising from a contract if the trustee has required performance of the contract pursuant to the provisions of subsection 46 (1) of this Act;
2) claims which arise from a contract for an indefinite period after the date when the trustee was first entitled to cancel the contract;
3) claims arising from a contract for an indefinite period if in the administration of the bankruptcy estate the trustee has accepted even partial performance of an obligation arising from the contract for the other party to the contract.

§ 150. Costs of bankruptcy proceedings

(1) The costs of bankruptcy proceedings are:
1) procedural expenses;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) remuneration of the interim trustee;
3) remuneration of the trustee;
4) remuneration of the members of the bankruptcy committee;
5) the necessary expenses incurred by the interim trustee and the trustee in the performance of their duties;
6) the amount paid into court on the basis of § 11 or § 30 of this Act.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) If a bankruptcy petition is satisfied, or the bankruptcy proceedings are terminated by a compromise, the costs of the bankruptcy proceedings shall be paid out of the bankruptcy estate.

(3) If a court dismisses or refuses to hear the bankruptcy petition of a creditor or if the proceedings are terminated due to withdrawal of the bankruptcy petition by the creditor, the costs of the bankruptcy proceedings shall be paid by the creditor.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(4) In the event of abatement of bankruptcy proceedings, the court shall decide on the division of the costs of the bankruptcy proceedings according to the circumstances.

(5) An appeal may be filed against a court ruling on the costs of bankruptcy proceedings.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 151. Obligation to deposit money

(1) If claims are satisfied according to the preliminary distribution proposal, the trustee shall deposit the money which is necessary for making the payments specified in subsection 146 (1) of this Act or is subject to payment on the basis of the estimated distribution ratios corresponding to the disputed claims in an Estonian credit institution or the Estonian branch of a foreign credit institution.

(2) A trustee is not required to deposit the money subject to payment on the basis of the estimated distribution ratios corresponding to disputed claims if, before the end of the disputes concerning the claims and the rights of security securing the claims, payments are made on the basis of the distribution ratios in order to satisfy only claims with a ranking preceding the ranking of the contested claims and no claims of the preceding ranking have been disputed.

§ 152. Satisfaction of contingent claims

(1) In a distribution proposal, a claim with a suspensive condition shall be taken into account in full and the corresponding amount shall be deposited. If the suspensive condition is not fulfilled within three years as of the end of the bankruptcy proceeding, the condition is deemed to be not fulfilled. After the expiry of the term specified in the second sentence of this subsection the court may, at the request of an entitled person, extend the term for fulfilment of the condition by three years, but not more than for a total of ten years.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(2) A claim with a suspensive condition shall not be taken into account in a distribution proposal if at the time the distribution proposal is made fulfilment of the condition is so unlikely that the claim has no proprietary value.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 153. Rankings of claims

(1) After the payments specified in subsection 146 (1) of this Act have been made, the claims of the creditors shall be satisfied in the following rankings:
1) accepted claims secured by a pledge, to the extent provided for in subsection (2) of this section;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) other accepted claims which were filed within the specified term;
3) other claims which were not filed within the specified term but were accepted.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) Claims secured by a pledge shall be satisfied first to the extent of the money received from the sale of the pledged object from which the payments specified in subsection 146 (1) of this Act in proportion to the ratio of the amount of money received from the sale of the pledged object to the total amount of money received from the sale of the bankruptcy estate, but not more than 15/100 of the amount of money received from the sale of the pledged object, have been deducted.

(3) If a pledged object has been encumbered with several rights of security, the claims shall be satisfied according to the rankings of the rights of security out of the money received from the sale of the pledged object. The expenses specified in subsection (2) of this section are divided between the pledgees in proportion to the share of the proceeds of the sale of the pledged object.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(4) If a claim secured by a pledge is not satisfied in full out of the money received from the sale of the bankruptcy estate, the rest of the claim shall be satisfied together with the claims specified in clause (1) 2) of this section. This does not apply if a bankrupt has pleged the assets thereof in order to secure a debt of a third person.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5) Claims of a lower ranking are satisfied after the claims of the preceding ranking have been satisfied in full.

(6) If the estate is not sufficient for satisfying all the claims of the same ranking, the claims shall be satisfied in proportion to the sizes of the claims.

§ 154. Distribution ratio

(1) A distribution ratio is the proportion of the money received from the sale of a bankruptcy estate which a creditor has the right to receive on the basis of an accepted claim of the corresponding ranking. If the trustee has submitted a preliminary distribution proposal, the distribution ratio set out for a disputed claim indicates

the proportion of the money received from the sale of the bankruptcy estate which the creditor has the right to receive if the court accepts the claim thereof in the full amount.

(2) A trustee shall commence payment of money on the basis of the distribution ratios after the approval of the distribution proposal as the money is received. Money shall be paid with the consent of the bankruptcy committee, taking into account the payments specified in subsection 146 (1) of this Act.

§ 155. Loss of right to distribution ratio

(1) If acceptance of an amount of money belonging to a creditor on the basis of the distribution ratio is delayed, the amount shall be deposited.

(2) If a creditor fails to accept the money belonging to the creditor on the basis of the distribution ratio within two years after the money was deposited, the creditor shall lose the right to the money. In such case, the money deposited shall be divided between the rest of the creditors or, in the case of the bankruptcy of an insurer or credit institution, the court may, on the proposal of the trustee, allow to transfer the balance of assets, the distribution expenses of which are apparently higher than the balance, to the Guarantee Fund.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 156. Assets to be returned to debtor

(1) The assets which remain after payments out of the bankruptcy estate have been made and the claims of the creditors have been satisfied in full shall be returned to the debtor.

(2) If a debtor who is a legal person is terminated but assets remain after payments out of the bankruptcy estate have been made and the claims of the creditors have been satisfied in full, such assets shall be paid to persons who would have had the right to the assets of the legal person in the event of termination of the legal person without bankruptcy proceedings.

Chapter 10
TERMINATION OF BANKRUPTCY PROCEEDINGS

§ 157. Bases for termination of bankruptcy proceedings

Bankruptcy proceedings terminate:
1) if the bankruptcy petition is dismissed (subsection 27 (5));
2) in the event of abatement of the bankruptcy proceedings (§ 158);
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
3) if the basis for bankruptcy ceases to exist (§ 159);
4) with the consent of the creditors (§ 160);
5) by approval of the final report (§ 163);
6) by approval of a compromise (§ 183);
7) on other bases provided by law.

§ 158. Abatement of bankruptcy proceedings after declaration of bankruptcy

(1) If a bankruptcy estate is not sufficient for making the payments necessary for covering the consolidated obligations and the costs of the bankruptcy proceedings, the trustee shall immediately notify the court thereof.

(2) After the notification specified in subsection (1) of this section, the trustee shall make payments from the bankruptcy estate pursuant to the provisions of § 146 of this Act. The trustee is required to sell the unsold part of the bankruptcy estate unless this is not possible without a considerable delay and would result in unreasonable expenses. The creditors with consolidated claims do not have the rights specified in § 149 of this Act.

(3) After performing the acts specified in subsection (2) of this section, a trustee shall submit a report containing the information specified in subsections 162 (2) and (3) of this Act to the court.

(4) After receipt of a report of a trustee, the court shall terminate the bankruptcy proceedings by abatement on the proposal of the trustee if the court establishes that the bankruptcy estate is not sufficient for making the payments necessary for covering the consolidated obligations and the costs of the bankruptcy proceedings. If the claims have been defended by the time of termination of the proceedings, the court ruling shall set out the extent to which each creditor's claim is accepted and the claims against which the debtor filed an objection.

(5) A court shall not terminate bankruptcy proceedings by abatement before the debtor has taken the oath provided for in § 86 of this Act if the court has required the debtor to take the oath and it is possible to administer the oath.

(6) A court shall not terminate proceedings on the basis of subsection (4) of this section if a creditor or a third person pays the amount ordered by the court for covering the consolidated obligations and the costs of the bankruptcy proceedings into court.

§ 159. Termination of bankruptcy proceedings after basis for bankruptcy has ceased to exist

(1) A court shall terminate bankruptcy proceedings on the basis of an application of the debtor if the debtor proves that the debtor is not insolvent or that the debtor is not likely to become insolvent, if the bankruptcy was declared because the debtor was likely to become insolvent.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) If the decision of a general meeting to terminate a debtor who is a legal person has been approved by the court before termination of the bankruptcy proceedings pursuant to subsection (1) of this section, the court ruling on termination of the bankruptcy proceedings shall set out that the legal person will not be terminated.

§ 160. Termination of bankruptcy proceedings with consent of creditors

(1) A court shall terminate bankruptcy proceedings on the basis of the application of the debtor if all the creditors who filed their claims within the specified term have granted consent to the termination of the proceedings.

(2) If a creditor whose claim has been disputed by the trustee or the debtor or is secured by a pledge does not consent to the termination of the proceedings, the court shall decide whether termination of the proceedings is possible without the consent of the creditor or without granting security to the creditor.

(3) If a debtor who is a legal person is permanently insolvent, the court shall decide on the liquidation of the debtor who is a legal person by a ruling on termination of the proceeding. The trustee shall liquidate the debtor who is a legal person within two months after entry into force of the abovementioned ruling.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 161. Termination procedure in exceptional cases

(1) A notice concerning submission of an application for termination of bankruptcy proceedings on a basis provided for in § 159 or 160 of this Act shall be published in the official publication *Ametlikud Teadaanded*. The notice shall set out the time and place for examining the documents and consents of the creditors on which the application is based and contain an explanation that objections may be filed to the application pursuant to subsection (2) of this section.

(2) Creditors may file objections to an application for termination of bankruptcy proceedings with the court within ten days as of publication of the notice specified in subsection (1) of this section.

(3) Proceedings shall not be terminated before the trustee has made the payments specified in § 146 of this Act and submitted a report containing the information specified in subsection 162 (2) of this Act to the court.

(4) A court shall make a decision on the termination of the proceedings by a ruling after the term specified in subsection (2) of this section has expired and the payments specified in subsection (3) of this section have been made. Before deciding on termination, the court shall hear the opinions of the debtor, the trustee in bankruptcy and the bankruptcy committee. If an objection is filed, the court shall also hear the opinion of the creditor who filed the objection.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 162. Submission of final report

(1) A trustee shall submit the final report to the bankruptcy committee and the court:
1) when the claims of the creditors have been satisfied in full;
2) when the bankruptcy estate has been sold and money has been paid on the basis of the distribution ratios;
3) if it is not possible to sell the whole bankruptcy estate, and the bankruptcy committee has given consent to the submission of the final report.

(2) A final report shall set out:
1) information concerning the bankruptcy estate and the money received from the sale thereof;
2) information concerning the payments specified in § 146 of this Act;
3) information concerning the money paid on the basis of the distribution ratios, broken down by the rankings of the claims;
4) information concerning the proceeds of the sale of each pledged object;
5) information concerning the unsold part of the bankruptcy estate and the assets to be received by the debtor from other persons;
6) information concerning the activities of the trustee in the administration of the bankruptcy estate;
7) the part of the accepted claim of each creditor for which the creditor has not received money;
8) information concerning the hearing of actions filed in the bankruptcy proceedings and concerning actions which the trustee intends to file;
9) the court expenses and the necessary expenses incurred by the interim trustee and the trustee;

10) other circumstances relevant to the bankruptcy proceedings.

(3) A trustee shall set out in the final report whether insolvency was caused by an act with criminal elements, a grave error in management, or other circumstances, and whether the trustee has submitted a petition for the commencement of criminal proceedings.

(4) If a debtor is a legal person and is liquidated, the final balance sheet shall be annexed to the final report. After the final report and the final balance sheet annexed thereto have been approved by the court, the trustee shall immediately forward the report and the balance sheet to the registration department of the court of the residence or seat of the debtor.

§ 163. Termination of bankruptcy proceedings by approval of final report

(1) A trustee shall publish a notice in the official publication *Ametlikud Teadaanded*setting out the time and place for examining the final report, and an explanation that objections to the final report shall be filed pursuant to subsection (2) of this section.

(2) Creditors may file objections to the final report with the court within ten days as of publication of a notice specified in subsection (1) of this section.

(3) A court shall decide on the approval of a final report and termination of the bankruptcy proceedings by a ruling within ten days after expiry of the term for filing objections. The court may hold a session for hearing the objections.

(4) A court ruling on termination of bankruptcy proceedings shall set out the extent to which each creditor has not received money for the accepted claim thereof and the claims against which the debtor has filed an objection.

(5) A court ruling on termination of bankruptcy proceedings shall set out whether the insolvency of the debtor was caused by an act with criminal elements, a grave error in management, or other circumstances. If the insolvency of the debtor was caused by an act with criminal elements, the court shall notify the prosecutor or the police thereof for deciding on the commencement of criminal proceedings. If the insolvency of the debtor was caused by a grave error in management, the trustee is required to file a claim for compensation for damage against the person liable for the error unless such claim has been filed already.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(6) A court shall refuse to approve a final report and return it to the trustee by a ruling for continuing the bankruptcy proceedings if it becomes evident from the final report that the rights of the debtor or the creditors have been violated in the bankruptcy proceedings.

(7) A notice concerning termination of bankruptcy proceedings shall be published in the official publication *Ametlikud Teadaanded*.

§ 164. Filing of appeals against rulings

(1) A debtor may file an appeal against the ruling by which the court terminates the bankruptcy proceedings.

(2) A creditor may file an appeal against the ruling on termination of the bankruptcy proceedings if the creditor has filed an objection against the application for termination of the proceedings pursuant to subsection 161 (2) or 163 (2) of this Act.

(3) Appeals may be filed against the circuit court ruling on the appeal against the ruling specified in subsection (1) or (2) of this section.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 165. Term of bankruptcy proceedings and release of trustee

(1) If bankruptcy proceedings are not terminated within two years after the declaration of bankruptcy, the trustee shall submit a report to the bankruptcy committee and the court setting out the following:
1) the reasons why the bankruptcy proceedings have not been completed;
2) information concerning the sold and unsold parts of the bankruptcy estate;
3) information concerning administration of the bankruptcy estate.

(2) A trustee shall submit the report specified in subsection (1) of this section once every six months until the termination of the bankruptcy proceedings.

(3) A court shall release a trustee upon termination of the bankruptcy proceedings unless otherwise provided by law.

(4) A court may refuse to release a trustee if by the time of termination of the bankruptcy proceedings, the bankruptcy estate has not been sold in full, money is still to be received for the bankruptcy estate, the actions

filed by the trustee have not been heard, or the trustee intends or is required to file an action. In such case, the trustee shall continue performance of his or her duties also after termination of the bankruptcy proceedings.

(5) After performance of the duties specified in subsection (4) of this section, the trustee shall submit a report to the court. The court shall decide on the release of the trustee by a ruling after receipt of the report of the trustee.

§ 166. Subsequent distribution

(1) If, after the end of the bankruptcy proceedings and release of the trustee, money is received in the bankruptcy estate, the amounts deposited upon distribution become available or it becomes evident that the bankruptcy estate includes objects which were not taken into account in the preparation of the distribution proposal, the court shall make a ruling on subsequent distribution on its own initiative or on the basis of the application of the trustee or a creditor.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) For the purposes of subsequent distribution, the court shall appoint a trustee who need not be the original trustee.

(3) Subsequent distribution shall be carried out in accordance with the distribution ratios prescribed in the distribution proposal.

(4) If subsequent distribution is ordered because the bankruptcy estate includes objects which were not taken into account in the preparation of the distribution proposal, the trustee shall seize the objects on the basis of the court ruling specified in subsection (1) of this section pursuant to the procedure provided for in the Code of Enforcement Procedure.

(5) As a prerequisite for subsequent distribution, the court may require the applicant to pay the amount ordered by the court for covering the expenses relating to the subsequent distribution into court.

(6) A court may refuse to carry out the subsequent distribution and leave the amount of money received or deposited or the object included in the bankruptcy estate to the person specified in subsection 156 (2) of this Act if the amount or the value of the object is disproportionately small taking into account the expenses relating to the subsequent distribution.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(7) The court shall decide on the release of the trustee by a ruling after receipt of the report of the trustee.

§ 167. Filing of claims after termination of bankruptcy proceedings

(1) After termination of bankruptcy proceedings, claims which could have been but were not filed during the bankruptcy proceedings and claims which were filed but were not satisfied or against which the debtor filed an objection may be filed by the creditors against the debtor pursuant to the general procedure. In such case, interest and fines for delay shall not be calculated for the period of the bankruptcy proceedings.

(2) A claim specified in subsection (1) of this section shall not be filed if the claim has expired due to release of the debtor from the obligations thereof pursuant to the provisions of § 176 of this Act.

(3) After termination of bankruptcy proceedings, creditors may also file claims arising from consolidated obligations which were not satisfied in the bankruptcy proceedings against the debtor.

(4) Claims arising during bankruptcy proceedings which cannot be filed in the bankruptcy proceedings may also be filed against the debtor pursuant to the general procedure. In such case, the limitation period commences as of termination of the bankruptcy proceedings.

§ 168. Ruling on termination of bankruptcy proceedings as execution document

A ruling specified in subsection 158 (4) or 163 (4) of this Act is an execution document to the extent that a claim of a creditor accepted in the bankruptcy proceedings was not satisfied in the bankruptcy proceedings, unless the debtor has filed an objection to the claim pursuant to subsection 104 (1) of this Act or the court has accepted the claim of the creditor in the case specified in subsection 104 (2) of this Act.

Chapter 11

RELEASE OF DEBTOR WHO IS NATURAL PERSON FROM OBLIGATIONS

§ 169. Release of debtor from obligations

A debtor who is a natural person may be released from his or her obligations which were not performed during the bankruptcy proceedings. The debtor is released from his or her obligations on the bases and pursuant to the procedure provided for in this Chapter.

§ 170. Petition of debtor

(1) A petition for the release of a debtor from his or her obligations shall be submitted to the court not later than by the time of the first general meeting of creditors or together with the report specified in subsection 158 (3) of this Act. The debtor may submit the petition also in his or her bankruptcy petition or after a creditor has filed a bankruptcy petition.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) In his or her petition, the debtor shall confirm that he or she is not aware of any circumstances which would preclude his or her release from obligations and that he or she undertakes to perform the obligations specified in § 173 of this Act.

§ 171. Commencement of proceedings

(1) Commencement of proceedings for the release of a debtor from his or her obligations shall be decided by the court in the case provided for in subsection 158 (4) of this Act or upon approval of the final report. A creditor may file an objection against the release of the debtor from his or her obligations based on circumstances specified in subsection (2) of this section.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(1^1) If a basis for abatement specified in subsections 29 (1) and (2) of this Act exists and the debtor has submitted a petition for releasing him or her from obligations, the court shall declare bankruptcy unless the basis provided for in subsection (2) of this section exist.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(2) A court may decide not to commence proceedings for the release of a debtor from his or her obligations if:
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]
1) the debtor has been convicted of a bankruptcy offence or a criminal offence relating to execution procedure, a tax offence or a criminal offence specified in §§ 380–3811 of the Penal Code;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
2) during the preceding three years before the appointment of an interim trustee 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 government or foundation or to evade payment of taxes;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
3) during the preceding ten years before the appointment of an interim trustee, the court has decided to release the debtor from his or her obligations or dismissed the debtor's petition for release from obligations due to a bankruptcy offence committed by the debtor;
[RT I 2009, 68, 463 - entry into force 01.01.2010]
4) during the preceding year before the appointment of an interim trustee or thereafter, the debtor has intentionally or through gross negligence hindered satisfaction of the claims of the creditors. Squandering of assets is also deemed to be damage caused to the interests of creditors.
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]
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 violated his or her other obligations provided for in this Act.

(2^1) Commencement of proceedings for the release of the debtor from his or her obligations shall not be hindered by the circumstance that the debtor has previously requested the restructuring of his or her debts and the restructuring proceedings have terminated.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(3) A debtor may file an appeal against the ruling by which the court refused to commence proceedings for the release of the debtor from his or her obligations.

(4) Creditors who have filed objections with the court pursuant to subsection (1) of this section may file appeals against the ruling by which the court commenced proceedings for the release of the debtor from his or her obligations.

(5) Appeals may be filed against the circuit court ruling on the appeal against the ruling specified in subsection (3) or (4) of this section.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 172. Trusted representative

(1) If a court commences proceedings for the release of a debtor from his or her obligations, the court shall appoint a trusted representative on the proposal of the general meeting of creditors and the debtor shall make the payments specified in subsections 173 (3) and (6) of this Act to such representative.

(2) A trusted representative shall keep the payments received from the 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 distribution proposal.

(3) At the reasoned request of a creditor, the right to verify whether the debtor performs his or her obligations may be granted to the trusted representative by the court.

(4) A trusted representative shall submit a report to the court at the end of the proceedings for the release of the debtor from his or her obligations. The court shall release the trusted representative upon termination of the proceedings.

(5) With good reason, the court may release a trusted representative and replace him or her by another trusted representative at its own initiative or at the request of a creditor or the trusted representative before the end of the proceedings for the release of the debtor from his or her obligations. The trusted representative released shall submit a report to the court.

(6) The court may, with good reason, especially if the appointment of a trusted representative would evidently result in unnecessary expenses and the court is convinced that the debtor is able perform the duties of a trusted representative, decide not to appoint a trusted representative and to require the debtor to perform the obligations of a trusted representative. In such case the court shall verify whether the debtor performs his or her obligations.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

§ 173. Obligations 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 shall notify the court and the trusted representative immediately if he or she changes residence or place of establishment, shall not conceal the income or assets received, and shall provide information at the request of the court or the trusted representative 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 shall be deemed assigned to the trusted representative. The trusted representative shall notify the persons obliged to make payments thereof.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(4) The trusted representative shall transfer 25 per cent of the income specified in subsection (3) of this section to the debtor. The court may determine a different rate, taking account of the circumstances.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(5) A debtor need not transfer the income which cannot be subject to a claim pursuant to law to the trusted representative.

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

§ 174. Prohibition on filing claims for payment

(1) During the proceedings for the release of a debtor from his or her obligations, the creditors in the bankruptcy proceedings, including the creditors in the bankruptcy proceedings who did not file their claims during the bankruptcy proceedings, shall not 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 shall, during the proceedings for the release of the debtor from his or her obligations, not file claims for payment with regard to the amounts of money which are to be transferred to the trusted representative.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 175. Decision on release of debtor from obligations

(1) At the request of a debtor, the court shall decide on the release of the debtor from his or her obligations which were not performed during the bankruptcy proceedings by a ruling five years after commencement of the proceedings for the release of the debtor from his or her obligations.

(1^1) Taking into account the circumstances, the court may release a debtor, who has been performing his or her obligations duly, from his or her obligations which were not performed during the bankruptcy proceedings also before five years have passed from commencement of the proceedings, but not before three years have passed from commencement of the proceedings, especially if the debtor has been performing his or her obligations duly during the proceedings and has satisfied the claims of the creditors to a considerable extent.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(2) A court shall refuse to release a debtor from his or her obligations if:
1) the debtor has been convicted of a bankruptcy offence;
2) the debtor has wrongfully violated his or her obligations specified in § 173 of this Act and has thereby damaged the interests of the creditors.

(3) A court shall not refuse to release a debtor from his or her obligations before the court has heard the trusted representative, the debtor, and the creditors who have requested to be heard.

(4) A debtor shall submit information concerning performance of his or her obligations to the court under oath. If the debtor fails to submit information within the term granted by the court, the court shall refuse to release the debtor from his or her obligations which were not performed in the bankruptcy proceedings.

(5) The court may decide to refuse to release the debtor from his or her obligations at its own initiative or at the request of a creditor or the trusted representative and terminate the proceedings for the release from obligations if a basis specified in subsection (2) or (4) of this section becomes evident before five years have passed. The creditor may submit such request within six months as of the time when he or she became aware of the violation of the debtor's obligations.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

(5^1) If the court finds that the release of the debtor from the obligations is not justified, it may extend the proceedings and set an additional term for the debtor, after expiry of which the petition for the release from obligations shall be reviewed again. This term in total shall not exceed seven years from the commencement of the proceedings.
[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

(6) Creditors and the debtor may file appeals against the ruling by which the court released or refused to release the debtor from his or her obligations. Appeals may be filed against the circuit court ruling on the appeal against the ruling.

(7) A court shall publish a notice concerning a ruling on the release or refusal to release a debtor from his or her obligations in the official publication *Ametlikud Teadaanded*.

(8) If a court releases or refuses to release a debtor from his or her obligations, the court shall terminate the proceedings for the release of the debtor from his or her obligations which were not performed during the bankruptcy proceedings.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 176. Consequences of release of debtor from obligations not performed in bankruptcy proceedings

(1) If a debtor is released from his or her obligations which were not performed during the bankruptcy proceedings, the claims of the creditors against the debtor, including the claims of the creditors who did not file their claims during the bankruptcy proceedings, terminate.

(2) Release of a debtor from his or her obligations which were not performed during the bankruptcy proceedings shall not terminate the obligations to compensate for damage intentionally caused by unlawful action or the obligations to pay support for a child or parent.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

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

(4) If a debtor satisfies a claim of a creditor after the debtor has been released from his or her obligations which were not performed during the bankruptcy proceedings, the assets transferred in performance of the obligation shall not be reclaimed from the creditor.

§ 177. Annulment of ruling on release of debtor from obligations

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

(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 ruling on the release of the debtor from his or her obligations was made.

(3) Before deciding on annulment of a ruling on the release of a debtor from his or her obligations which were not performed during the bankruptcy proceedings, the court shall hear the debtor and the representative.

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

(5) A court shall publish a notice on the annulment of a ruling on the release of a debtor from his or her obligations which were not performed during the bankruptcy proceedings in the official publication *Ametlikud Teadaanded*.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 12
COMPROMISE

§ 178. Definition of compromise

(1) Compromise means an agreement between a debtor and the creditors concerning payment of debts and involves reduction of the debts or extension of their terms of payment.

(2) A compromise is made in bankruptcy proceedings on the proposal of the debtor or the trustee after the declaration of bankruptcy. A general meeting of creditors or the bankruptcy committee may assign the trustee with the duty to draft the compromise proposal.

(3) A compromise decision shall be made by a general meeting of creditors. The court shall decide on the approval of the compromise by a ruling.

§ 179. Compromise proposal

(1) A compromise proposal shall set out to which extent and by which date the debtor is to pay the debts. The compromise proposal shall contain proof that the debtor is able to pay the debts to the extent and by the date indicated. If the debtor engages in business or professional activity, the plan for continuing the business or professional activity and the rehabilitation plan of the enterprise shall be annexed to the proposal.

(2) A compromise proposal may be filed until approval of a distribution proposal by the court.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 180. Decision on making compromise

(1) A compromise is made at a general meeting of creditors concerning all claims against the debtor which have been filed by the time of making the compromise (compromise decision). The compromise decision shall set out the term of validity of the compromise.

(2) A compromise decision shall be made after the claims have been defended.

(3) A compromise is deemed to be made if at least one-half of the creditors present whose claims constitute at least two-thirds of the total amount of all claims vote in favour. If an objection has been filed against the claim of a creditor, and the court proceedings concerning acceptance of the claim have not ended by the time of making the compromise decision, the creditor shall participate in voting on the compromise proposal on the basis of a claim determined in accordance with subsection 82 (4) of this Act. If an objection has been filed against the claim of a creditor, and the court proceedings concerning acceptance of the claim have not ended by the time of making the compromise decision, the creditor shall participate in voting on the compromise proposal in accordance with the number of votes assigned to the claim by a court ruling specified in subsection 82 (4) of this Act.

[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

§ 181. Participation of creditors with claims secured by pledge in voting

(1) A creditor whose claim is secured by a pledge shall vote on a compromise only if the claim is not fully secured by the pledge. In such case, the claim of the pledgee shall be taken into account in voting only to the extent that the claim would presumably not be satisfied out of the proceeds of the sale of the pledged object. In the event of a dispute, the size of the secured part of the claim shall be determined by the trustee.

(2) If invocation of a claim arising from the right of security of a creditor who is the pledgee is requested to be precluded for more than ninety days by a compromise proposal, the claim of the creditor who is the pledgee shall be fully taken into account in voting.

§ 182. Restriction of rights of pledgees

(1) If a debtor engages in business or professional activity and according to the compromise the pledged object is necessary for continuing the activities of the enterprise of the debtor, the claim secured by the pledge shall not be invoked during the term determined by the compromise.

(2) If a pledgee votes against a compromise, the term specified in subsection (1) of this section shall not exceed one year.

(3) If invocation of a claim secured by a pledge has been postponed in accordance with a compromise proposal due to necessity of the pledged object for continuing the activities of the enterprise of the debtor and the period of the postponement is longer than those applicable to the other pledgees, interest prescribed by the compromise proposal shall be paid to the pledgee for the difference in the periods. If the compromise proposal does not prescribe the amount of the interest, the interest provided by law shall be paid.

(4) The interest specified in subsection (3) of this section shall be calculated on a claim secured by a pledge or, if the claim is larger than the amount of money presumably received from the sale of the pledged object, on such amount.

§ 183. Approval of compromise

(1) A trustee shall immediately submit a compromise decision to the court for approval. The court shall decide on approval of the compromise by a ruling within fifteen days after the date of submission of the compromise decision to the court.

(2) A court shall not approve a compromise if the compromise has been made in violation of the requirements provided for in this Act or by fraud.

(3) If a court refuses to approve a compromise decision due to violation of the requirements provided for in this Act in the making of the compromise, the trustee shall call a new general meeting of creditors within fifteen days as of the making of the ruling on refusal to approve the compromise.

(4) The creditors, the debtor and the trustee may file appeals against a ruling by which the court has approved or refused to approve a compromise. Appeals may be filed against the circuit court ruling on the appeal against the ruling.

(5) A trustee shall publish a notice concerning the approval of a compromise in the official publication *Ametlikud Teadaanded*. The notice shall set out, inter alia, the circumstances specified in § 186 of this Act, and the transactions for the conclusion of which the debtor needs the consent of the trustee (subsection 189 (2)).
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 184. Consequences of compromise

(1) A court ruling approving a compromise terminates the bankruptcy proceedings.

(2) On the basis of the ruling, the debtor recovers the right to administer his or her assets and the sale of the assets shall be terminated. Money received from the sale of the assets which has not been transferred to creditors shall be transferred to the debtor.

(3) The obligation to perform the consolidated obligations and pay the costs of the bankruptcy proceedings transfers to the debtor.

(4) If bankruptcy proceedings are terminated by approving the compromise decision, the trustee or the members of the bankruptcy committee shall not be released and they have the rights and obligations specified in §§ 188–190 of this Act.

(5) A compromise 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 for an obligation solidarily with the

debtor performs the obligation, the person has the right of recourse against the debtor only to the extent to which the debtor would be liable for performance of the obligation according to the compromise.

(6) A compromise approved by a court is an execution document with regard to the claims accepted in the bankruptcy proceedings. If the compromise consists in the extension of the terms for the payment of debts, the claims concerned by the compromise shall not be invoked during the term specified by the compromise.

§ 185. Validity of restrictions on cancellation

The provisions of §§ 50–53 of this Act apply also during the term of validity of a compromise.

§ 186. Credit for continuation of business activities

(1) A compromise may prescribe that the claims of the persons who have granted credit to the debtor in order to enable the debtor to continue the business activities thereof shall be given priority over the claims of the other creditors in the bankruptcy proceedings conducted if the compromise is annulled.

(2) If a compromise prescribes that the claims of the persons specified in subsection (1) of this section shall be given priority, in full or in part, over the claims secured by a pledge, the claims of the creditors who are the pledgees shall be taken into account in full in voting on the compromise proposal.

(3) A compromise shall prescribe the maximum amount of the claims to be satisfied pursuant to subsection (1) of this section.

(4) A person who has granted credit to a debtor in order to enable the debtor to continue the business activities thereof has the right to demand satisfaction of the person's claim pursuant to subsection (1) of this section only if the debtor has agreed with the creditor to which extent the principal claim, interest and collateral claims arising from the credit are to be satisfied pursuant to subsection (1) of this section, and the trustee has granted his or her written consent to such agreement.

§ 187. Claims of new creditors

The preferential right to the satisfaction of the claim of a creditor specified in § 186 applies also to creditors whose claims against the debtor have arisen from an agreement during the term of validity of the compromise.

§ 188. Recovery in compromise

A trustee has the right recover assets for the bankruptcy estate during the term of validity of a compromise.

§ 189. Supervision over performance of compromise

(1) A trustee and the bankruptcy committee shall exercise supervision over the performance of a compromise.

(2) A compromise may prescribe that during the term of validity of the compromise the debtor may conclude the transactions specified by the compromise only with the consent of the trustee. In such case, transactions specified by the compromise which are concluded without the consent of the trustee are void.

(3) If a compromise prescribes that the debtor may conclude transactions only with the consent of the trustee, a notation concerning the restraint on disposition shall be made in the register and the provisions of §§ 40 and 41 of this Act apply correspondingly.

(4) If the trustee ascertains that the debtor is unable to meet the requirements to which the compromise applies, the trustee shall immediately notify the court and the bankruptcy committee thereof.

(5) A trustee is required to submit a report on his or her activities and on the fulfilment of the compromise to the court and the bankruptcy committee once a year.

(6) A trustee shall be remunerated for the exercise of supervision. The amount of the remuneration shall be determined by the compromise.

§ 190. Annulment of compromise

(1) A court may annul a compromise at the request of the trustee or a creditor with regard to whom the compromise applies if:
[RT I 2008, 59, 330 - entry into force 01.01.2009]
1) the debtor is convicted of a bankruptcy offence or a criminal offence relating to execution procedure;
2) the debtor fails to perform the duties arising from the compromise;

3) upon expiry of at least one-half of the term of validity of the compromise, it is evident that the debtor is unable to meet the requirements of the compromise.

(2) If circumstances specified in subsection (1) of this section become evident, the trustee is required to submit a request for the annulment of the compromise to the court.

(3) A request for the annulment of a compromise may be submitted only during the term of validity of the compromise.

(4) If a compromise is annulled, the bankruptcy proceedings shall be reopened. The court shall annul the compromise and reopen the bankruptcy proceedings by a ruling.

(5) If a compromise is annulled, the creditors whose claims decreased by the compromise have the right of claim in the initial amount, taking into account the amounts already received by the creditors.

(6) A creditor whose claim arose during the term of validity of the compromise is required to notify the trustee of the creditor's claim pursuant to the provisions of §§ 93 and 94 of this Act not later than within two months after publication of the notice specified in subsection (8) of this section.

(7) The claims to which a compromise applied are deemed to be defended. Claims arising during the term of validity of the compromise shall be defended pursuant to the procedure provided for in §§ 100–107 of this Act.

(8) A court shall publish a notice concerning annulment of a compromise and reopening of the bankruptcy proceedings in the official publication *Ametlikud Teadaanded*.

§ 191. Bankruptcy petitions during term of validity of compromise

(1) During the term of validity of a compromise, bankruptcy petitions shall not be filed on the basis of the claims to which the compromise applies.

(2) If during the term of validity of a compromise a bankruptcy petition is filed with regard to the debtor on the basis of a claim to which the compromise does not apply, the court shall involve the trustee who exercises supervision over performance of the compromise in the hearing of the bankruptcy petition and may assign the trustee with the duties specified in § 22 of this Act. In such case, the trustee has the rights and obligations of an interim trustee.

(3) If a court establishes in the case specified in subsection (2) of this section that taking into account the provisions of the compromise there is still basis for declaring the bankruptcy of the debtor, the court shall annul the compromise and reopen the bankruptcy proceedings by a ruling.

(4) In the case specified in subsection (3) of this section, the court shall publish the notice specified in subsection 190 (8) of this Act.

(5) The debtor and the petitioning creditor may file appeals against the court ruling on adjudication of the bankruptcy petition specified in subsection (2) of this section.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 192. Expiry of term of compromise

(1) Creditors whose claims are concerned by a compromise may invoke their claims which were not satisfied during the term of validity of the compromise also after expiry of the term of validity to the extent agreed by the compromise.

(2) A court shall release a trustee by a ruling after expiry of the term of the compromise.

(3) Upon expiry of the term of a compromise, the notations concerning restraints on disposition shall be deleted from the register.

Chapter 13
IMPLEMENTATION OF ACT

§ 193. Application of Act to bankruptcy proceedings

(1) The provisions of this Act apply to procedural acts performed after the entry into force of this Act in bankruptcy proceedings which have commenced before the entry into force of this Act.

(2) Subsections 33 (5) and 39 (2), the third sentence of subsection 40 (2) and the third sentence of subsection 41 (1) of this Act enter into force by a separate Act as of Estonia's accession to the European Union.

(3) If bankruptcy is declared before repeal of subsection 44 (3) of this Act, the version of subsection 44 (3) of this Act in force before 1 January 2010 applies to the bankruptcy proceedings.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 193[1]. Specification concerning requirement for education of trustee in bankruptcy

The requirement for education and work experience specified in clause 57 (1) 1) of this Act shall not be applied to a person who has the right to act as a trustee in bankruptcy on 31 December 2009 and such a person need not have undergone the training specified in clause 5) of the same section and failure to comply with the specified requirements shall not be the basis for deprivation him or her of the right to act as a trustee in bankruptcy.
[RT I 2009, 68, 463 - entry into force 01.01.2010]

§ 194.–§ 200.[Omitted from this text]

§ 201. Entry into force of the Act

(1) This Act enters into force on 1 January 2004.

(2) Clause 198 1) of this Act enters into force on the day following the publication of this Act in the *Riigi Teataja*.