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Bankruptcy Act

(120/2004; *konkurssilaki*)

Chapter 1 — General provisions

Section 1 — *Bankruptcy*

(1) A debtor who cannot repay his or her debts can be declared bankrupt in accordance with the provisions of this Act. The court shall make the order of bankruptcy on the petition of the debtor or a creditor.

(2) Bankruptcy is a form of insolvency proceedings covering all the liabilities of the debtor, where the assets of the debtor are used in payment of the claims in bankruptcy. In order to achieve the objective of the bankruptcy, the assets of the debtor shall in the beginning of bankruptcy become subject to the authority of the creditors. An estate administrator appointed by the court shall see to the management and liquidation of the assets of the debtor and to the other administration of the bankruptcy estate.

Section 2 — *Application of this Act*

(1) The provisions of this Act apply in so far as not otherwise provided in some other Act or agreed with a foreign State.

(2) If the matter has a connection to another Member State, as referred to in Council Regulation (EC) No 1346/2000 on insolvency proceedings, and the Regulation is in effect in that State, the provisions of the Regulation apply instead of those of this Act.

(3) Separate provisions apply to the ranking of claims, the recovery of assets to the bankruptcy estate and the supervision of the administration of bankruptcy estates.

Section 3 — *Susceptibility to bankruptcy*

(1) A private individual, a corporation, a foundation and another legal person may be declared bankrupt. A legal person may be declared bankrupt even if it has been removed from the relevant register or dissolved. Also a decedent's estate and a bankruptcy estate may be declared bankrupt.

(2) The State, the autonomous Åland Islands, a municipality, a federation of municipalities, another municipal co-operative body under public law, a State enterprise, an independent agency under public law, the Evangelical Lutheran Church, the Orthodox Church, and a parish of the Evangelical Lutheran Church or the Orthodox Church cannot be declared bankrupt.

Section 4 — *Beginning of bankruptcy*

Bankruptcy begins when the court makes an order of bankruptcy relating to the debtor.

Section 5 — *Claims in bankruptcy*

A claim in bankruptcy means a debt owed by the debtor and based on a commitment or other legal basis that has arisen before the beginning of bankruptcy. Also claims secured by collateral and claims whose basis or

amount is conditional, disputed or otherwise unclear are claims in bankruptcy. In a continuous debt relationship, the part of the debt from the period before the beginning of bankruptcy shall be deemed a claim in bankruptcy.

Section 6 — *Post-bankruptcy liability*

The debtor shall not be released from liability for those debts in bankruptcy that are not repaid in full in the bankruptcy.

Chapter 2 — **Prerequisites for an order of bankruptcy**

Section 1 — *Insolvency as a prerequisite for bankruptcy*

(1) An insolvent debtor may be declared bankrupt, unless otherwise provided in this Act or in some other Act.

(2) For the purposes of this Act, insolvency means that the debtor is otherwise than temporarily unable to repay his or her debts as they fall due.

Section 2 — *Right of a creditor to petition for bankruptcy*

(1) A creditor may petition for bankruptcy, if his or her claim against the debtor:

(1) is based on a *res judicata* judgment, or a judgment, decision or other ground for enforcement that can be enforced as a *res judicata* judgment;

(2) is based on a commitment signed by the debtor and not contested by the debtor with obvious justification; or

(3) is otherwise so clear that its validity cannot justifiably be doubted.

(2) If the creditor's claim is insignificant and an order of bankruptcy would be obviously inappropriate in view of the costs and benefits of bankruptcy proceedings or clearly contrary to proper debt collection practice, the creditor's petition for bankruptcy shall be ruled inadmissible.

(3) However, a creditor cannot petition for bankruptcy if the time limit of enforcement of the ground for enforcement relating to his or her claim has expired in accordance with chapter 2, sections 24–26, of the Enforcement Act (37/1895; *ulosottolaki*). Then again, a petition for the bankruptcy of a decedent's estate may still be filed on the basis of such a claim. (786/2004)

Section 3 — *Insolvency assumption*

(1) The debtor shall be deemed insolvent, if the debtor declares that he or she is insolvent and there are no special reasons for not accepting that declaration.

(2) Unless it is otherwise proven, the debtor shall also be deemed insolvent especially if:

(1) the debtor has discontinued payments;

(2) it has been determined in enforcement proceedings during the six months preceding the filing of the petition for bankruptcy that the debtor cannot repay the claim in full; or

(3) a debtor, who is, or who during the year preceding the filing of the petition for bankruptcy has been, under the obligation to keep accounts, has not repaid the clear and due claim of the creditor within a week of the receipt of a reminder.

(3) The debtor may be declared bankrupt under paragraph (2)(3) only if the creditor files the relevant petition within three months of the time limit referred to in that provision and the claim still remains unpaid. The creditor shall serve the reminder referred to in that provision on the debtor by verifiable means or, if the criteria in chapter 11, section 7, of the Code of

Judicial Procedure (*oikeudenkäymiskaari*) are met, in accordance with the procedure provided in that section. The reminder shall indicate the basis and the amount of the claim. In addition, it shall indicate that the creditor may petition for the bankruptcy of the debtor, unless the debt is repaid within a set time after the receipt of the reminder.

Section 4 — *Security as an impediment to an order of bankruptcy*

(1) The debtor cannot be declared bankrupt on the petition of a creditor, if

(1) the creditor holds adequate collateral or another comparable security;

(2) the creditor holds an adequate security given by a third party for the repayment of a claim that has fallen due and a petition for bankruptcy is contrary to the terms that the creditor is deemed to have consented to when accepting the security; or

(3) the creditor's claim has not fallen due and the creditor holds an adequate security given by a third party, or a third party is offering to provide such security.

(2) Also a personal guarantee is considered a form of security.

Section 5 — *Over-indebtedness as a prerequisite for bankruptcy*

A debtor in liquidation, a decedent's estate and a bankruptcy estate may be declared bankrupt also if its assets are not adequate for meeting its liabilities. However, a decedent's estate may be declared bankrupt only if, owing to the extent of the estate, the liquidation of its assets or some other special reason, bankruptcy is an appropriate way of using the assets of the estate for the repayment of the debts of the estate and the deceased. (786/2004)

Chapter 3 — **Legal consequences of the beginning of bankruptcy**

Section 1 — *Debtor's loss of authority*

In the beginning of bankruptcy, the debtor shall lose his or her authority over the assets of the bankruptcy estate.

Section 2 — *Bona fide transactions*

(1) A transaction entered into by the debtor concerning assets of the bankruptcy estate shall not be binding on the estate. However, the transaction shall be binding on the estate if the debtor has entered into it before the beginning of bankruptcy was announced and the other party did not know and ought not to have known that the debtor had no authority over the assets. In this event, the estate may refuse to hand over assets, or demand that assets be returned against a refund of the consideration paid by the other party and against compensation for the necessary costs incurred in the completion of the transaction.

(2) A notice of termination or a comparable measure given or received by the debtor after the announcement shall be binding on the bankruptcy estate, unless the other party knew or ought to have known that the debtor had no authority to do so and if it would be obviously unreasonable to hold that the measure is not binding on the estate.

(3) A payment made to the debtor after the beginning of bankruptcy shall be valid, unless the payer knew or ought to have known that the debtor had no authority to receive the payment. If the payment has been made before the announcement of the beginning of bankruptcy, the payer shall be deemed to have been in good faith, unless it is otherwise proven. If the payment has been made after the announcement, the payer shall not be deemed to have been in good faith, unless it is otherwise proven.

Section 3 — *Court proceedings concerning assets of the bankruptcy estate*

(1) If, at the beginning of bankruptcy, court proceedings are pending between the debtor and a third party concerning assets of the bankruptcy estate, the estate shall be reserved the opportunity to resume the proceedings. If the estate does not avail itself of this opportunity, the debtor may resume the proceedings. The estate may be rendered liable for the legal costs of the opposing party only in so far as these have arisen from the exercise of the right of the estate to be heard.

(2) After the beginning of bankruptcy, the debtor has the right to bring an action concerning assets of the bankruptcy estate, if the estate has declined to do so. However, the debtor's right of action shall not cover actions for the annulment of transactions or other similar actions where only a bankruptcy estate or a creditor has standing.

(3) If, in a case referred to in paragraph (1) or (2), the bankruptcy estate wishes to settle with a third party, the debtor has the right to bring an action or to resume the proceedings if he or she posts security for the offer of the third party in settlement.

(4) The profit or benefit gained by the debtor in court proceedings referred to in paragraphs (1)–(3) shall belong to the bankruptcy estate. However, the debtor has the right to collect the legal costs that the opposing party may be liable to pay.

Section 4 — *Court proceedings or other proceedings concerning a claim in bankruptcy*

(1) After the beginning of bankruptcy, no action shall be brought for the purpose of obtaining, as against the bankruptcy estate, a ground for enforcement concerning a claim in bankruptcy. However, a creditor protected by collateral may bring an action in order to collect on the claim out of the collateral.

(2) If, in the beginning of bankruptcy, court proceedings concerning a claim in bankruptcy are pending against the debtor, the bankruptcy estate shall be reserved an opportunity to resume the proceedings. If the estate declines to respond to the action, the plaintiff may request that the case be decided, unless the debtor resumes the proceedings. The estate may be rendered liable for the legal costs of the opposing party only in so far as these have arisen from the exercise of the right of the estate to be heard.

(3) Taxes, public charges and other comparable claims shall be imposed regardless of the beginning of bankruptcy, in accordance with the specific provisions on the same.

Section 5 — *Initiation of separate enforcement proceedings*

(1) After the beginning of bankruptcy, no enforcement measures shall be carried out on the assets of the bankruptcy estate in order to collect on a claim in bankruptcy. The provisions in chapter 17 apply to the liquidation of collateral.

(2) The provisions in paragraph (1) apply correspondingly to precautionary measures for the collection on a claim.

Section 6 — *Resumption of separate enforcement proceedings*

(1) If assets of the bankruptcy estate have been distrained before the beginning of bankruptcy, the enforcement shall be stayed and the distrained assets and the possibly accrued funds remitted to the estate, unless the estate requests that the enforcement be resumed on its behalf. If the sale of the distrained assets has been announced before the beginning of bankruptcy, the enforcement may be stayed only if the estate so requests. If the enforcement is resumed or an

already announced sale is cancelled at the request of the estate, the estate shall bear the costs of the enforcement.

(2) The provisions in chapter 17 apply to the liquidation of collateral. If, however, collateral has been distrained before the beginning of bankruptcy to cover a claim other than that owed to the creditor protected by collateral, the provisions in paragraph (1) apply. If the assets have already been sold, the provisions of the Enforcement Act apply to the remittance of the funds to the creditors protected by collateral. However, the provisions in paragraph (1) apply to the liquidation of assets subject to a business mortgage.

(3) Funds garnished from wages, salary, pension and business income towards maintenance payable to a child shall be remitted to the requester notwithstanding the provisions in paragraph (1).

Section 7 — *Status of the bankruptcy estate in an enforcement appeal and an enforcement dispute*

If the bankruptcy estate considers that assets subject to an enforcement appeal or an enforcement dispute belong to the estate, the estate may assume the status of the creditor as a party in the case. The court shall reserve the estate an opportunity to be heard, and the hearing of the case may resume if the estate exercises its right to assume the status of a party.

Section 8 — *Right of the bankruptcy estate to commit to a contract entered into by the debtor*

(1) If, in the beginning of bankruptcy, the debtor has not performed a contract to which he or she is a party, the other contracting party shall request a declaration of whether the bankruptcy estate commits to the contract. If the estate declares, within a reasonable time, that it commits to the contract, as well as posts acceptable security for the performance of the contract, the contract cannot be terminated for cause.

(2) However, the other contracting party may terminate the contract for cause notwithstanding the provision in paragraph (1), if the contract is of a personal nature or there is another special reason for which it cannot be required that the other party stay under contract with the bankruptcy estate.

Section 9 — *Falling due of claims*

(1) A claim in bankruptcy that has not fallen due shall in the bankruptcy be considered due as between the creditor and the debtor. However, this provision does not apply to conditional claims, nor to damages or other similar claims whose basis and amount need be determined by special inquiry, nor to claims that require performance from the creditor.

(2) The provisions on the falling due of claims in paragraph (1) do not apply if the bankruptcy is reversed or if an appellate court quashes the order of bankruptcy.

Section 10 — *Statute of limitations*

Separate provisions apply to the effect of bankruptcy on the statute of limitations regarding a claim in bankruptcy.

Section 11 — *Validity of legal effects*

(1) The legal effects of the beginning of bankruptcy remain valid even if an appeal is filed against the order of bankruptcy. The legal effects shall cease if the order of bankruptcy is quashed. However, when quashing the order, the court may for a special reason order that the legal effects remain valid until the quashing order has become *res judicata* or until it is otherwise ordered.

(2) If the bankruptcy is reversed, lapses or otherwise ceases, the legal effects of the beginning of bankruptcy shall cease when the court order is handed down, unless the court for a special reason orders that the legal effects remain valid until the order has become *res judicata* or until it is otherwise ordered.

Section 12 — *Opportunity for distraint*

When the legal effects of bankruptcy cease, the estate administrator shall notify the same to the bailiff and reserve the bailiff the opportunity to distrain, within a reasonable time, those assets of the debtor that are not needed for the payment of the costs of bankruptcy and the other debts of the estate. However, no notice to the bailiff need be given, if this is clearly unnecessary owing to the insufficiency of funds or some other reason. The administrator shall surrender those assets that are not distrained to the debtor.

Chapter 4 — **Status of the debtor in bankruptcy**

Section 1 — *Treatment of the debtor*

The debtor shall be treated with respect and his or her interests shall be taken appropriately into account in the scrutiny and administration of the estate.

Section 2 — *Debtor's right to information and to be heard*

(1) The debtor shall have the same right as a creditor to receive information from the estate administrator on the estate and its administration, as well as on the matters to be dealt with in a creditors' meeting or in alternative decision-making procedure. In addition, the debtor has the right to attend the creditors' meeting and to express opinions there and in alternative decision-making procedure.

(2) The estate administrator may restrict the debtor's right to information and to be heard, if a restriction is to be deemed necessary so as to protect the interests of the estate or a third party or for some other special reason. The information shall, however, be given to the debtor once the impediment has passed.

Section 3 — *Debtor's right to financial support*

(1) A debtor who is a private individual and his or her dependents shall be granted financial support from the assets of the bankruptcy estate, unless their livelihood is otherwise secure. When the support is being granted, due attention shall be given also to the debtor's earning potential, his or her acts towards the scrutiny of the estate and the ability of the estate to pay the support. The support may be granted for a period no longer than six months after the beginning of bankruptcy. Any dispute as to the support shall be resolved by the court.

(2) The provisions in paragraph (1) apply also to a partner in an unlimited partnership, the general partner in a limited partnership and a shareholder-manager of a limited-liability company, if the debtor partnership or company has been the main source of livelihood for that person.

Section 4 — *Messages and other deliveries to the debtor*

(1) Even in the absence of consent by the debtor, the estate administrator has the right to take possession of and open letters and other messages and parcels addressed to the debtor and connected to the debtor's economic activity or the scrutiny of the estate.

(2) At the request of the estate administrator, the postal operator shall hand over to the administrator any letters or parcels referred to in section 3 of the Postal Services Act (313/2001; *postipalvelulaki*) addressed to the debtor and

connected to the debtor's economic activity or the scrutiny of the estate, or deliver them to the address given by the estate administrator.

Section 5 — *Debtor's duty of co-operation and disclosure*

(1) The debtor shall be co-operative so that the estate administrator can discharge his or her duties and that the bankruptcy proceedings can be brought to a conclusion in an appropriate manner.

(2) Specifically, the debtor shall:

(1) see to it that the estate administrator gains possession of the assets of the estate and the debtor's premises, as well as access to the debtor's IT systems;

(2) disclose to the estate administrator information on the assets of estate and on the claims in bankruptcy, as is necessary for the drawing up of the estate inventory; and

(3) disclose to the estate administrator the other information necessary for the discharge of his or her duties.

(3) The debtor shall provide the estate administrator with his or her contact details and be accessible to the administrator if necessary. At the request of the estate administrator, the debtor shall arrive to the premises of the estate administrator or the debtor in order to discharge the duties referred to in paragraph (1).

Section 6 — *Attestation of the estate inventory and the provision of information*

(1) The debtor shall attest the estate inventory by his or her signature. If the debtor cannot attest the estate inventory as it is, he or she shall make or append to it the additions, corrections and other remarks he or she deems necessary.

(2) At the request of the estate administrator, the court may order that instead of signing the estate inventory the debtor is to appear in court and there attest the estate inventory under oath or solemn affirmation. The debtor may likewise be compelled to provide information towards the estate inventory. If the debtor has not attested the estate inventory by his or her signature, he or she may be compelled to attest the inventory under oath or affirmation also after the conclusion of bankruptcy. The provisions in this paragraph on the estate inventory apply also to the inventory of a decedent's estate where the estate is bankrupt and to the provision of information towards the same.

(3) The continuation of bankruptcy shall not be affected by the estate inventory remaining unattested owing to the absence of the debtor or some other reason.

Section 7 — *Right of the debtor to reimbursement of expenses*

If the debtor is to appear in court or elsewhere in order to supply information on the estate, he or she shall be reasonably reimbursed from the assets of the estate for those necessary travel or living expenses that have been incurred in the discharge of the duties referred to in section 5 or 6. Any dispute as to the reimbursement shall be resolved by the court.

Section 8 — *Pre-bankruptcy precautions*

(1) If the bankruptcy petition is manifestly justified, the court may order the following precautions before an order of bankruptcy is made:

(1) order the seizure of the debtor's assets or make another precautionary order referred to in chapter 7, section 3, of the Code of Judicial Procedure so as to safeguard the disbursements to the creditors out of the assets of the debtor, if there is a danger of the debtor hiding,

destroying or conveying assets to the detriment of the creditors or otherwise acting in a manner compromising the interests of the creditors;

(2) order the seizure of the debtor's books, receipts and other accounting materials, as well as documents on the debtor's administration and the other business papers and records of the debtor, to the extent necessary, or make another precautionary order referred to in chapter 7, section 3, of the Code of Judicial Procedure, if there is a danger of the debtor hiding, destroying or damaging the said materials or otherwise acting in a manner compromising the interests of the creditors and thus hampering the scrutiny of the estate; and

(3) enjoin the debtor from leaving the country, if there are probable reasons to believe that the debtor will abscond and thus fail to discharge the duty of co-operation and information provided in section 5 or 6.

(2) In addition, the provisions of chapter 7, sections 5(1) and 10–13, of the Code of Judicial Procedure apply, in so far as appropriate, to the precautions referred to in paragraphs (1)(1) and (1)(2).

(3) An injunction against leaving the country, as referred to in paragraph (1)(3), shall remain in effect at most until the debtor has attested the estate inventory. However, a new injunction under section 9(2) may be issued while the injunction is in effect. A person subject to an injunction shall not be issued with a passport. If such a person has a passport, he or she shall deposit it with the police for as long as the injunction is in effect.

Section 9 — *Injunction against leaving the country after the beginning of bankruptcy*

(1) After the beginning of bankruptcy, the court may enjoin the debtor from leaving the country if the criteria for an injunction under section 8(1)(3) are met. The injunction shall remain in effect at most until the debtor has attested the estate inventory.

(2) If a request referred to in section 6 has been filed with the court to the effect that the debtor should attest the estate inventory in court, the court may at the same time enjoin the debtor from leaving the country. The injunction shall remain in effect at most until the debtor has discharged his or her duty.

Section 10 — *Procedure on precautions*

(1) A precautionary order referred to in sections 8 and 9 may be made at the request of a creditor or the estate administrator. If the matter is urgent, the order may be made without reserving the debtor an opportunity to be heard. The court shall cancel the order on its own motion or at the request of the creditor as soon as the criteria for it are no longer met. If the bankruptcy petition is rejected, ruled inadmissible or dismissed without prejudice, or if the bankruptcy is reversed, the order shall lapse. When making an order of bankruptcy, the court shall order whether an injunction against leaving the country, imposed under section 8, is to remain in effect.

(2) The court shall see to it that the debtor is at once notified, by appropriate means, of an injunction against leaving the country and of the obligation to deposit his or her passport with the police, as well as of the cancellation or lapse of the order. The court shall without delay give the corresponding notice to the police for recording into the police IT system. The information shall be erased from the register without delay once the order has been cancelled or has lapsed.

(3) A court order on precautions or an injunction against leaving the country shall not be open to regular appeal. However, the debtor may lodge a complaint

against the order without regard to time limits. The complaint shall be heard as an urgent matter.

Section 11 — *Forcible measures against the debtor*

(1) If the debtor fails to discharge the duty of co-operation or information provided in section 5 with the result that the estate administrator cannot discharge his or her duties in an appropriate manner, or refuses to attest the estate inventory or to provide information towards the estate inventory as required in section 6, the court shall at the request of the estate administrator order the debtor to discharge his or her duty under threat of a fine. If the debtor does not discharge the duty without delay, the threat of the fine shall be rendered enforceable.

(2) If the debtor persists in his or her contumacy regardless of the enforcement of a threat of a fine under paragraph (1), the court may at the request of the estate administrator order that the debtor be taken into detention until he or she discharges the duty. The debtor may be taken into detention also without the imposition or enforcement of a threat of a fine, if it is evident that the debtor will persist in his or her contumacy regardless of any threat of a fine. The debtor shall not be kept in detention for longer than six months. If the debtor complies before that time, the court shall be notified of the same and the hearing of the matter shall then be continued without delay and in any event within four days of the debtor's notice of compliance. The court shall order the immediate release of the debtor if the criteria for detention are no longer met. The debtor shall be notified of the continuation of the hearing of the matter owing to his or her compliance.

(3) The debtor shall be reserved an opportunity to be heard on a request of the estate administrator under paragraphs (1) and (2). If the debtor is in hiding or if his or her whereabouts are unknown, the threat of a fine may be imposed and a detention request heard even if the debtor has not been reserved an opportunity to be heard. The court shall see to it that the debtor is at once notified, by appropriate means, of the threat of the fine. A debtor absent from the hearing of a detention request without a legal excuse may be ordered to be taken into detention regardless of the absence.

(4) When a police officer apprehends a debtor who has been ordered to be taken into detention under this section, he or she shall notify the debtor of the continuation of the hearing of the matter owing to compliance.

(5) An order on forcible measures shall not be open to regular appeal. However, a complaint may be lodged against the order without regard to time limits. The complaint shall be heard as an urgent matter.

(6) Provisions shall be issued by a Decree of the Ministry of Justice on the delivery of detention documents to the police so as to safeguard the continuation of the hearing of the matter.

Section 12 — *Debtor*

(1) If the bankrupt is a corporation or a foundation, the provisions in sections 5–7 of this chapter on the debtor, of sections 8–10 on an injunction against leaving the country and of section 11 shall be applied to a person who is personally liable for the commitments of a corporation, the manager or a director of a corporation, foundation or other legal person, an administrator, another person in a corresponding position, as well as a person who has held such a position in a corporation, foundation or other legal person during the year preceding the filing of the bankruptcy petition.

(2) If the debtor is a bankruptcy estate, also the estate administrator shall be considered a debtor in the application of the provisions referred to in paragraph (1).

(3) If the debtor is a decedent's estate, the shareholder in whose administration the estate has been shall be considered a debtor in the application of the provisions referred to in paragraph (1).

(4) If the court so orders, also the following shall be considered debtors in the application of the provisions referred to in paragraph (1):

(1) a person who has earlier held a position referred to in paragraph (1) or who has been in actual charge of the operations of a corporation, foundation or other legal person or seen to its management or administered its assets;

(2) a person who has been in actual charge of the business of a debtor who is a private individual, or administered his or her assets;

(3) a shareholder in a decedent's estate other than one referred to in paragraph (3) and another person who has administered the estate or had it in his or her possession.

(5) A request for a court order referred to in paragraph (4) may be filed by the estate administrator or a creditor. The court shall reserve the prospective subject of the order an opportunity to be heard. A court order of this type shall not be open to regular appeal. However, a complaint against the order may be lodged without regard to time limits. The complaint shall be heard as an urgent matter.

Section 13 — *Restrictions of the competency of the debtor*

If the competency of a bankrupt debtor for some office or position has been restricted elsewhere in the law, the restrictions shall remain in effect from the beginning of bankruptcy until the attestation of the estate inventory. Unless it has been otherwise provided, the restrictions shall nonetheless remain in effect for at most four months from the beginning of bankruptcy.

Chapter 5 — **Assets of the bankruptcy estate**

Section 1 — *General provisions on the assets of the bankruptcy estate*

(1) Subject to the exceptions provided in this chapter, the assets that the debtor has in the beginning of bankruptcy and the assets that the debtor acquires before the conclusion of bankruptcy shall be assets of the bankruptcy estate. However, the assets acquired or the income earned by a private individual after the beginning of bankruptcy shall not be assets of his or her bankruptcy estate.

(2) In addition, assets that can be recovered to the estate by virtue of the Act on the Recovery of Assets to a Bankruptcy Estate (758/1991; *laki takaisinsaannista konkurssipesään*) or on some other basis shall be assets of the bankruptcy estate.

(3) Assets that are acquired by way of substitution to the bankruptcy estate, as well as the proceeds of assets of the bankruptcy estate, shall likewise be assets of the bankruptcy estate.

Section 2 — *Status of assets located abroad in certain situations*

If the competence of the court in a bankruptcy matter has been based on chapter 7, section 1(2), only those of the debtor's assets that are located in Finland are assets of the bankruptcy estate.

Section 3 — *Non-distrainable assets and assets subject to a restriction of assignment*

(1) Non-distrainable assets shall not be assets of the bankruptcy estate.

(2) However, the following shall be assets of the bankruptcy estate:

(1) assets referred to in chapter 4, section 5(1)(5), of the Enforcement Act;

(2) other assets that by law are assets of the bankruptcy estate.

(3) A condition restricting the right of the debtor to assign movable property to a third party shall not be binding on the bankruptcy estate, except in so far as otherwise provided in section 7.

Section 4 — *Accounting materials*

The accounting materials pertaining to the business or professional activity of the debtor shall belong to the bankruptcy estate.

Section 5 — *Right to inheritance*

The right of the debtor to inheritance or to testamentary inheritance shall not be an asset of the bankruptcy estate, if the debtor has renounced the inheritance, as provided in chapter 17, section 2a, of the Code of Inheritance (40/1965; *perintökaari*), after the death but before the beginning of bankruptcy, or if the debtor renounces it within three months of being notified of the death and of the right to inheritance or testamentary inheritance.

Section 6 — *Assets of third parties*

Assets in the possession of the debtor but belonging to a third party shall not be assets of the bankruptcy estate if they can be detached from the debtor's assets. The assets of the third party shall be surrendered to the owner or to an assignee of the owner subject to such conditions that the bankruptcy estate is entitled to impose.

Section 7 — *Retention of title and repossession*

(1) The provision in section 6 applies, with the exceptions provided below in this chapter, also to movable assets that remain subject to a right based on a term concerning the retention of title or repossession by the assignor (*seller*).

(2) If the term concerning the retention of title or repossession has been agreed on after the debtor has taken possession of the assets on the basis of the assignment, the term shall be of no effect as against the bankruptcy estate. If the debtor has the right to assign the assets to a third party notwithstanding the term concerning the retention of title or repossession, to attach them to other assets or otherwise to dispose of the assets as if the debtor were the owner, the term shall likewise be of no effect as against the bankruptcy estate.

Section 8 — *Intervention of the estate into a conditional assignment of assets*

(1) If, according to a contract of assignment of movable assets, a term concerning the retention of title or repossession expires when the purchase price is paid, the bankruptcy estate has the right to commit to the contract by notifying the seller of the same and by paying the outstanding purchase price, plus any overdue interest, in accordance with the original terms. The notice shall be given and the price paid within a reasonable time after the seller has requested payment or the return of the assets.

(2) The estate has also the right to redeem the assets at once by paying the full amount due to the seller, less the interest and the other costs of the credit for the remaining credit period.

(3) In the situations referred to in paragraphs (1) and (2), the bankruptcy estate shall not be liable in damages nor subject to a contractual penalty or any other consequence of a breach of contract by the debtor.

Section 9 — *Specific provisions on repossession and settlement of account*

The seller has the right to demand the repossession of assets and a settlement of account on the basis of a term concerning the retention of title or repossession even if the prerequisites for repossession and settlement under the Hire-Purchase Act (91/1966; *laki osamaksukaupasta*) or chapter 7 of the Consumer Protection Act (38/1978; *kuluttajansuojalaki*) were not met. Also the bankruptcy estate has the right to demand a settlement of account.

Section 10 — *Status of finance companies and other transferees*

The provisions in sections 7–9 on the seller apply also to finance companies and other corporations or individuals to whom the rights and obligations of the seller under the contract of assignment have been transferred.

Section 11 — *Disregard of artificial transactions*

(1) Assets that are alleged to belong to a third party shall be assets of the bankruptcy estate if the status of the third party is based on a financial transaction or other arrangement whose legal form does not correspond to its actual content or intent and if this form is evidently being used in order to avoid enforcement or to keep assets out of reach of creditors. The provision on assets applies also to income directed by the debtor into such an arrangement.

(2) In the evaluation of the actual content or intent of the arrangement referred to in paragraph (1), due note shall be taken of the authority of the debtor, where comparable to the authority of an owner, the acts of the debtor that are comparable to an owner's acts, as well as the benefits of the arrangement to the debtor and other similar circumstances.

Chapter 6 — **Set-off in bankruptcy**

Section 1 — *General provisions on the right of the creditor to set-off*

(1) Subject to the exceptions provided in sections 2 and 5, the creditor has the right to use a claim in bankruptcy for set-off against a debt owed to the debtor at the beginning of bankruptcy. The creditor has the right of set-off even if the debt owed to the debtor or the claim has not fallen due when the set-off notice is given.

(2) Chapter 12, section 12, contains provisions on the duty of the creditor to supply information on the claim to be used for set-off.

Section 2 — *Restrictions of the right of the creditor to set-off*

(1) The creditor shall not use for set-off any claim that does not entitle him to a payment out of the bankruptcy estate, nor any claim that is junior to other claims under section 6, paragraphs (1)(3)–(1)(5), of the Act on the Ranking of Claims (1578/1992; *laki velkojien maksunsaantijärjestyksestä*).

(2) A claim against the debtor that has been acquired from a third party later than three months before the cut-off date referred to in section 2 of the Act on the Recovery of Assets to a Bankruptcy Estate cannot be used for set-off against a debt owed by the creditor to the debtor at the time of the acquisition. The same provision applies to claims acquired in the said manner before the cut-off date, if the creditor at the time of the acquisition had a justified reason to believe the debtor to be insolvent.

(3) A creditor who has committed to the payment of a debt to the debtor under circumstances where the arrangement is comparable to a payment made by the debtor has no right to set-off in so far as the payment would have been recoverable to the bankruptcy estate.

Section 3 — *Establishment of a right of recovery*

A right of recovery based on a guarantee, third-party collateral or a joint and several liability shall in the application of sections 1 and 2 be deemed to have arisen upon the establishment of the obligation in question.

Section 4 — *Compensation for the transfer of a debt*

If the bankruptcy estate transfers a debt so that the creditor loses the right to set-off, the estate shall compensate the creditor for the loss thus incurred.

Section 5 — *Special provision for credit institutions*

A credit institution shall not set a claim off against funds that the debtor has on deposit in an account with the institution at the beginning of bankruptcy or that at that time are held by the institution for a transfer to the debtor's account, if the account under the pertinent terms can be used for the management of payments.

Chapter 7 — **Court proceedings**

Section 1 — *International jurisdiction*

(1) In a bankruptcy matter where the centre of the main interests of the debtor is located in Finland or in another Member State of the European Union subject to the Council Regulation (EC) No 1346/2000 on insolvency proceedings, the jurisdiction of the Finnish courts shall be governed by the said Regulation.

(2) If the centre of the main interests of the debtor is located in a state other than one referred to in paragraph (1), the Finnish courts shall have jurisdiction if the debtor has business premises in Finland or holds such assets in Finland that it can be deemed expedient to have the bankruptcy begin here. However, the Finnish courts shall not have jurisdiction if the debtor has been declared bankrupt in Iceland, Norway or Denmark and the debtor has been domiciled in the same state.

Section 2 — *Jurisdiction in a matter pertaining to an order of bankruptcy*

(1) A matter pertaining to an order of bankruptcy shall be heard by the court in whose district the general legal seat of the debtor is located. However, a matter pertaining to a corporation, foundation or other legal person shall be heard by the court in whose district the effective management, in Finland, of the corporation, foundation or legal person is located. If there is no court with jurisdiction by virtue of the preceding provision, the matter shall be heard by the court in whose district the main operations of the debtor have been pursued, where the debtor has assets or where the hearing of the matter is under the circumstances otherwise to be deemed expedient.

(2) Notwithstanding the provisions in paragraph (1), if the debtor is a part in a group of companies, a matter pertaining to an order of bankruptcy may be heard by another court with jurisdiction over a bankruptcy matter of another debtor in the same group of companies, if it is expedient to hear the matter in this latter court.

(3) The Act on the Restructuring of Companies (47/1993; *laki yrityksen saneerauksesta*) contains provisions on jurisdiction when a bankruptcy petition is filed while company restructuring is under way.

(4) A matter pertaining to the bankruptcy of a decedent's estate shall be heard by the court in whose district the deceased had his or her general legal seat. The matter may be heard also by the court in whose district the decedent's estate has assets, if it is expedient to hear the matter in this latter court.

Section 3 — *Jurisdiction in other matters pertaining to bankruptcy*

(1) The court that has issued an order of bankruptcy or to which the matter has been reassigned shall have jurisdiction also over the following matters referred to in this Act:

(1) financial support and compensation payable to the debtor, the attestation of the estate inventory and the provision of information, precautionary measures over the assets of the debtor, injunctions to the debtor against leaving the country, and forcible measures against the debtor;

(2) the appointment, duties and dismissal of an estate administrator and the fee of the administrator;

(3) the amount and basis of a disputed claim in bankruptcy, unless the debt is to be confirmed in some other proceedings, and the ranking of claims;

(4) the certification, rectification and alteration of the disbursement list;

(5) the establishment of a creditors' committee;

(6) the overturning and alteration of the decisions of the creditors;

(7) the liquidation of the assets of the bankruptcy estate, the disbursement of the funds and the final settlement of accounts;

(8) the reversal or lapse of the bankruptcy, as well as public receivership and the certification of a composition.

(2) If the debtor is a part in a group of companies, a matter referred to in paragraph (1) may also after the beginning of bankruptcy be reassigned to a court with jurisdiction over a bankruptcy matter of another debtor in the same group of companies. A court order on reassignment shall not be open to appeal.

(3) Notwithstanding the provisions in this section, the case of a debtor who has been detained for reason of contumacy, if its date of review falls on a holiday, may be heard by the District Court on call, as referred to in chapter 1, section 9, paragraph (1), of the Coercive Measures Act (450/1987; *pakkokeinolaki*).

Section 4 — *Procedure*

(1) The provisions on procedure in petitionary matters apply, in so far as appropriate, to procedure in a bankruptcy matter.

(2) A bankruptcy matter shall be heard with the promptness warranted by the nature of the matter.

Section 5 — *Bankruptcy petition*

(1) A bankruptcy matter shall be filed with a written petition. The petition shall contain the following information:

(1) the request of the petitioner and the grounds therefor;

(2) the name and domicile of the debtor and the debtor's personal identity number or business identity number;

(3) the telephone number and the address for service of the petitioner or the petitioner's legal representative or attorney;

(4) the basis for the jurisdiction of the court.

(2) The petition shall be signed by the petitioner or the person who drew up the petition. The documents or other written evidence invoked by the petitioner shall be attached to the petition; if the debtor is a corporation, foundation or some other legal person, an extract of the appropriate register shall likewise be attached to the petition. A petition by the debtor shall also be accompanied with the appropriate decision or consent regarding the surrender of the debtor's assets into bankruptcy. The debtor shall also attach to the petition an account of his or her assets and the value thereof, information on the total amount of his or her outstanding debts, as well as a list of his or her main creditors, including their contact details.

(3) A bankruptcy petition relating to a decedent's estate shall be accompanied by the inventory of the decedent's estate or, if not available, by other evidence on the over-indebtedness of the estate.

(4) The court may require other evidence on the financial situation of the debtor, if this for a special reason is necessary for a decision on the matter.

Section 6 — *Reassignment of the petition*

(1) If the court holds that it has no jurisdiction in a matter pertaining to an order of bankruptcy, it shall at the request of the petitioner reassign the matter to the competent court.

(2) If the court to which the matter has been reassigned under paragraph (1) holds that it has no jurisdiction in the matter, it shall rule it inadmissible.

(3) A court order on reassignment under paragraph (1) shall not be open to appeal.

Section 7 — *Effects of reassignment*

If the court reassigns a matter pertaining to an order of bankruptcy to another court, the orders it may have issued shall remain in effect until it is otherwise ordered in the further hearing of the matter. The same provision applies also in situations where a superior court reassigns the matter to the competent court in accordance with chapter 10, section 29, of the Code of Judicial Procedure.

Section 8 — *Proceeding with the creditor's petition*

(1) The court shall serve the creditor's petition on the debtor and reserve the debtor an opportunity to present a written statement before a set deadline.

(2) If the debtor contests the petition, the matter shall be heard in open court, unless the debtor has consented to the matter being dealt with in chambers. The debtor and the petitioning creditor shall be summoned to the hearing. The petition of the creditor may be decided even in the absence of the debtor or even if the debtor fails to present a statement.

(3) The hearing of the petition of the creditor may be postponed for an acceptable reason. In the absence of consent by the creditor, the matter may at the request of the debtor be postponed by at most one week.

(4) If the petition pertains to a decedent's estate, the estate, the main creditors of the deceased and the receiver, if one has been appointed, shall be reserved an opportunity to present written statements.

Section 9 — *Multiple petitions*

(1) The court shall determine whether the debtor can be declared bankrupt on the basis of an petition that has become pending before another petition that served as the basis of the bankruptcy of the debtor.

(2) The provision in paragraph (1) applies also to petitions that become pending after the petition that served as the basis of the bankruptcy of the debtor. The proceedings on a later petition shall lapse, if the order of bankruptcy becomes *res judicata*.

Section 10 — *Role of the prosecutor*

By virtue of his or her office, a prosecutor has the right to peruse the trial materials in a bankruptcy matter, to be present in a hearing and to pose questions during the hearing.

Section 11 — *Court's duty of inquiry*

The court shall inquire whether the prerequisites for bankruptcy are met.

Section 12 — *Order of bankruptcy*

(1) A court order of bankruptcy shall indicate the (clock) time when the order was issued or handed down, as well as the date when the petition became pending.

(2) Chapter 3 contains provisions on the legal effects of the beginning of bankruptcy and chapter 8 contains provisions on the appointment of the estate administrator.

(3) Chapter 22 contains provisions on the announcement of the beginning of bankruptcy and the notices relating to bankruptcy.

Section 13 — *Reversal of bankruptcy*

(1) Bankruptcy may be ordered to be reversed on the joint petition of the debtor and the creditor who filed the bankruptcy petition or, if the debtor has been declared bankrupt on his or her own petition, on the petition of the debtor. It shall be a prerequisite for a reversal that the petition has been filed within eight days of the order of bankruptcy and that a valid reason is supplied for the reversal. The court shall reserve the estate administrator and, at its own discretion, the creditors an opportunity to be heard.

(2) Chapter 22 contains provisions on the notice of a reversal of bankruptcy.

Section 14 — *Costs of participation in the proceedings*

The provisions of chapter 21 of the Code of Judicial Procedure apply on the compensation of legal costs in a matter pertaining to an order of bankruptcy and in other bankruptcy matters.

Section 15 — *Urgency of appeals*

The court that has decided a matter pertaining to an order of bankruptcy shall forward any letters of appeal to the appellate court without delay. The appeal shall be heard as a matter of urgency.

Chapter 8 — **Estate administrator**

Section 1 — *Appointment of the estate administrator*

(1) The court shall appoint an estate administrator in the beginning of bankruptcy. Several administrators may be appointed, if this is necessary owing to the extent of the duty or for some other reason. The administrative duties may be allocated to the administrators in accordance with the order of the court.

(2) Before the appointment of the estate administrator, the court shall reserve the main creditors, the nominee and, at its discretion, the debtor, the other creditors and the pay security authority an opportunity to be heard. At the

request of a creditor, the court may exhort the nominee to supply information on the grounds for his or her fee demand.

(3) The court shall issue the estate administrator with a certificate on the appointment.

Section 2 — *Temporary estate administrator*

If it is not possible to appoint an estate administrator at once in the beginning of the bankruptcy, the court shall appoint a temporary estate administrator. The regular estate administrator shall be appointed within two weeks of the appointment of the temporary estate administrator.

Section 3 — *Appointment of an estate administrator in a group of companies*

A person who has been appointed or nominated as an estate administrator may be appointed as the estate administrator also for another debtor in bankruptcy belonging to the same group of companies or otherwise to the same economic entirety, if this can be deemed expedient for the administration of the bankruptcy estates and if there is reason to believe that the functions can be performed without conflicts of interest that would cause an essential disturbance therein.

Section 4 — *Separate appointment of an estate administrator*

The court may appoint an estate administrator in addition to the administrators appointed earlier. For a special reason, the court may appoint an administrator for a specific duty or for a fixed period. Such appointments shall be governed, in so far as appropriate, by the provisions on the appointment of an estate administrator.

Section 5 — *Qualifications of an estate administrator*

(1) A person may be appointed as an estate administrator, if he or she consents to the appointment, has the ability, skills and experience required for the duty, and is also otherwise suitable for the duty. The administrator shall not have a relationship with the debtor or the creditor that would compromise his or her independence of the debtor or his or her impartiality towards the creditors, or of his or her ability to perform the task in an appropriate manner.

(2) A person who has consented to an appointment as an estate administrator shall declare to the court any circumstances that might compromise his or her independence or impartiality as an administrator or give rise to justifiable doubts as to his or her independence or impartiality.

Section 6 — *Dismissal of the estate administrator*

(1) The estate administrator may be dismissed, if:

(1) he or she is unqualified or disqualified;

(2) he or she neglects the proper discharge of the duty or acts in breach of proper administrative practice, thus showing that he or she is unsuitable for the duty; or

(3) there is another important reason for dismissal.

(2) An estate administrator may be dismissed at his or her own request, if there is a valid reason for the same.

(3) If the estate administrator is dismissed, a new administrator shall be appointed, unless this is unnecessary.

(4) An request for the dismissal of the estate administrator may be filed by the debtor or by the creditor. The court shall reserve the administrator and, at its

discretion, the debtor and the creditors an opportunity to be heard on the request.

(5) A court order on the dismissal of the estate administrator shall be complied with regardless of appeal, unless the appellate court seised of the matter otherwise orders.

Section 7 — *Fee of the estate administrator*

(1) The estate administrator shall be entitled to a fee from the funds of the bankruptcy estate, reasonable in view of the demands of the duty, the measures taken, the extent of the estate and the other circumstances, as well as to compensation for his or her costs that have been necessary in the administration of the estate. Beyond the fee, the administrator shall not obtain other benefits for himself or herself or for any connected person.

(2) The particulars of the fee and compensation shall be set by the creditors, after having heard the estate administrator, without delay after the administrator has been appointed and, if necessary, also at a later stage. The fee and the compensation shall be paid during the discharge of the duty at reasonable intervals. The creditors may decide that a part of the fee be paid at the conclusion of the duty of the administrator. The creditors shall decide on the payment of the fee and compensation once the administrator has supplied an account of the measures on which the payment is to be based.

(3) A dispute on the fee or compensation shall be decided by the court on the request of the estate administrator, the debtor or a creditor. The request shall be filed within one month of the creditors' decision on the fee or compensation.

Section 8 — *Fee of the estate administrator at cessation of bankruptcy*

(1) If the bankruptcy is reversed or the proceedings cease for some other reason before the creditors have decided on the fee of the estate administrator, the court shall decide the amount of the fee. The administrator shall also be entitled to compensation for his or her costs necessary in the administration of the estate. The court shall decide the amount of the compensation and make an order as to the liability for the payment of the fee and compensation.

(2) The debtor shall be liable for the fee and compensation of the estate administrator. However, a creditor may be rendered fully or partially liable for the amount payable to the administrator, if the order of bankruptcy or the order on the reversal of the bankruptcy has been delayed by reason of neglect on the part of the creditor or of incomplete or misleading information supplied by the creditor. If the debtor is the liable party, the administrator has the right to withhold from the assets of the estate the amount needed to cover the fee and compensation, to sell said assets, and to collect his or her receivable out of the selling price.

(3) Chapters 10 and 11 contain provisions on the fee of the estate administrator in the event that the bankruptcy lapses or continues under public receivership.

Section 9 — *Access of the estate administrator to information*

(1) Notwithstanding any provisions on secrecy, the estate administrator shall have the same access as the debtor to information on the debtor's bank accounts, payments, financing arrangements and commitments, assets, taxation and other circumstances on the debtor's financial situation or economic activity, as is necessary for the scrutiny and administration of the estate.

(2) In the bankruptcy of a decedent's estate, the estate administrator shall have the same access to information concerning the deceased and the estate as provided in paragraph (1) on information concerning the debtor.

Section 10 — *Forcible measures*

If the estate administrator neglects a duty or obligation incumbent on him or her under this Act, the court may at the request of a creditor or the debtor, after having heard the administrator, order him or her to discharge the duty or obligation within a set period, as well as reinforce the order with the threat of a fine.

Section 11 — *Obligation of the estate administrator to present an account at the conclusion of the duty*

(1) If the duty of the estate administrator is concluded before the conclusion of bankruptcy owing to dismissal or some other reason, the administrator shall present the creditors with an account that gives a sufficient picture of the management of the assets of the estate, the use of estate funds and the other measures. However, if there are several administrators, the account need only be given if an administrator who is to continue in the duty or a creditor so requires. If the bankruptcy is reversed or the order of bankruptcy is quashed, the account shall be presented to the debtor.

(2) If the task of an estate administrator is concluded before the conclusion of bankruptcy, the administrator shall surrender the assets of the estate in his or her possession to the administrator who is to continue in the duty.

Chapter 9 — **Scrutiny of the bankruptcy estate and the books of the debtor**

Section 1 — *Estate inventory*

(1) The estate administrator shall draw up an inventory of the assets and liabilities of the debtor (*estate inventory*). The estate inventory shall indicate, in sufficient detail, the assets of the debtor in the beginning of bankruptcy, an estimate on the result of their liquidation, as well as the debts and other liabilities of the debtor. The administrator shall draw up a summary of the financial situation of the debtor as an annex of the estate inventory, if the inventory is extensive or if it is otherwise expedient to draw up a summary.

(2) The estate inventory shall be drawn up within two months of the beginning of bankruptcy. If the accounts of the debtor are incomplete or erroneous to an essential degree or if the estate inventory cannot be drawn up in time owing to the extent of the estate or some other special reason, the court may extend the time limit on its own motion or at the request of the estate administrator. A court order extending the time limit shall not be open to appeal.

(3) In the bankruptcy of a decedent's estate, the inventory of the decedent's estate shall serve as the estate inventory in the bankruptcy, if it has been drawn up before the bankruptcy.

(4) The estate administrator shall present the estate inventory or the summary to the debtor, the main creditors and, at request, also to other creditors.

Section 2 — *Debtor description*

(1) The estate administrator shall draw up a description of the debtor and the pre-bankruptcy operations of the debtor (*debtor description*), indicating at least:

(1) the ownership and group relationships of the debtor, if the debtor is a corporation;

(2) the main reasons of the bankruptcy;

(3) how the books of the debtor have been kept;

(4) if intermediaries have been used in the management of the operations of the debtor;

(5) the fees and compensation paid to the persons connected to the debtor and the use of the debtor's assets for his or her personal purposes, in so far as warranted by their amount, timing or other special reasons, as well as the debts owed to connected persons, with grounds, if these debts are considerable in amount;

(6) observations on circumstances that may be relevant as to the continuation of the bankruptcy;

(7) observations of circumstances that may be relevant for a possible prohibition to pursue a business;

(8) the audits on the operations and the accounts of the debtor, as well as the need for such audits.

(2) The debtor description shall be drawn up within two months of the beginning of bankruptcy. If the debtor description cannot be completed in time owing to the extent of the estate or some other special reason, the court may extend the time limit at the request of the estate administrator. A court order extending the time limit shall not be open to appeal.

(3) The estate administrator shall present the debtor description to the prosecutor, the debtor, the main creditors and, at request, also to other creditors. At request, the debtor description shall also be presented to a pre-trial investigation authority.

(4) If circumstances arise later that may have an essential significance to the assessment of whether the debtor or a representative of the debtor should be enjoined from pursuing a business, the estate administrator shall without delay notify the prosecutor and the Bankruptcy Ombudsman. The administrator shall provide the prosecutor with the requested information and documents needed for an inquiry into the existence of grounds for a prohibition to pursue a business.

Section 3 — *Completion of the books of the debtor*

(1) The estate administrator shall see to the completion of the books of the debtor up to the beginning of bankruptcy and to the preparation of final accounts for the financial period ending with the beginning of bankruptcy. However, this obligation shall not apply if the books are in the beginning of bankruptcy so incomplete that they will not serve as a basis for reliable final accounts, or if the completion of the books or the preparation of final accounts cannot be deemed justifiable in view of the insufficient means of the estate or some other reason.

(2) If the accounting materials of the debtor are in the possession of someone else than the debtor, they shall be surrendered to the bankruptcy estate. The estate need pay compensation only for the costs arising from the delivery of the materials.

Section 4 — *Special audit*

The creditors may decide on the special audit of the debtor's books and operations, if the books or some other circumstance so warrant.

Section 5 — *Liability for neglect in book-keeping*

If the debtor's books have been neglected so that the bankruptcy estate has not without undue inconvenience been able to scrutinise the profit or loss or the financial situation of the debtor, or the essential business transactions of a

debtor obliged to keep books, the party responsible for the neglect shall be liable to compensate the estate for the reasonable costs arising from the completion of the books.

Chapter 10 — **Prerequisites for lapse of bankruptcy**

Section 1 — *Lapse of bankruptcy*

The court shall make an order on lapse of bankruptcy, if the funds of the bankruptcy estate are insufficient for the costs of the bankruptcy proceedings and none of the creditors assumes liability for the costs, or if the disbursement to the creditors out of the funds of the estate would be so insignificant that the continuation of the bankruptcy would not for that reason be expedient. However, no court order on lapse of bankruptcy shall be made, if the bankruptcy is to continue under public receivership, as referred to in chapter 11.

Section 2 — *Request for lapse of bankruptcy*

(1) The estate administrator shall file a request for lapse of bankruptcy without undue delay once a cause for the same becomes known. The request may be filed also by a creditor, the debtor or the Bankruptcy Ombudsman. The request cannot be filed before the estate inventory and the debtor description have been prepared.

(2) When the estate administrator files a request for lapse of bankruptcy, he or she shall attach to it the estate inventory, the debtor description and an estimate of the costs of the bankruptcy proceedings and the funds available to cover them. If a creditor, the debtor or the Bankruptcy Ombudsman have filed the motion, the administrator shall at the request of the court provide it with the estate inventory, the debtor description and his or her estimate of the costs of the bankruptcy proceedings and the funds available to cover them.

(3) Before filing the request with the court, the estate administrator shall deliver the request and its attachments to the main creditors and, if need be, ask whether they will assume liability for the costs of the bankruptcy proceedings. The request and its attachments shall likewise be delivered to the Bankruptcy Ombudsman. The administrator shall notify the debtor of the filing of the motion.

Section 3 — *Procedure in a matter relating to lapse of bankruptcy*

If need be, the court shall reserve the debtor, the main creditors and the Bankruptcy Ombudsman an opportunity to be heard on a request for lapse of bankruptcy filed by the estate administrator. If the motion has been filed by someone else than the administrator, the administrator, the debtor, the main creditors and the Bankruptcy Ombudsman shall be reserved an opportunity to be heard.

Section 4 — *Fee of the estate administrator at lapse of bankruptcy*

(1) At lapse of bankruptcy, the estate administrator shall be entitled to a reasonable fee and compensation for his or her costs that have been necessary in the administration of the estate. The fee and the compensation shall be paid from estate funds. The administrator has the right to withhold assets from the estate to cover the fee and compensation, to sell said assets, and to collect his or her receivable out of the selling price.

(2) The court shall decide the amount of the fee and compensation and make an order as to amount of the compensation to be paid from state funds. The estate administrator shall present the court with an itemised invoice for the

measures taken and, if compensation is claimed from state funds, an account of the funds of the debtor available for the payment of compensation. The court shall reserve the debtor and, at its discretion, the creditors and the Bankruptcy Ombudsman an opportunity to be heard. The Bankruptcy Ombudsman has the right to express an opinion on the fee demand of the administrator also on his or her own motion, as well as to appeal against the court order.

Section 5 — *Compensation payable to the estate administrator from state funds*

(1) The estate administrator shall be paid a fee and compensation for the preparation of the estate inventory and the debtor description from state funds; the amount shall not exceed EUR 500 and it shall be paid only in so far as the funds of the bankruptcy estate do not cover the fee or compensation.

(2) If the bankruptcy continues under public receivership, the Bankruptcy Ombudsman may decide that the fee due to the estate administrator from the funds of the estate be paid from state funds, if this is expedient in view of the public receivership. In this event, the administrator shall surrender the assets that he or she has withheld from the bankruptcy estate to the public receiver.

Section 6 — *Assumption of liability for costs*

(1) A creditor may assume liability for the costs of the bankruptcy proceedings by notifying the estate administrator of the same. The creditor may state that the liability is to be in effect only until such time that the measures detailed in the creditor's commitment have been completed. However, a limitation of liability shall not compromise the equality of the creditors and it shall be expedient in view of the continuation of the proceedings.

(2) The costs of the bankruptcy proceedings shall consist of the court fees levied on the procedure, the fee of the estate administrator and the other costs arising from the scrutiny and administration of the estate.

(3) If the estate administrator considers that the creditor's notice of assumption of liability cannot be accepted at once, or if the creditor does not post the required security, or if the continuation of the bankruptcy cannot be deemed expedient, the administrator or the creditor may bring the matter to court, which shall then decide whether the commitment of the creditor can be accepted and under what terms. The matter shall be brought to court before it makes an order on lapse of bankruptcy.

Section 7 — *Notification and appeals*

(1) Notices on lapse of bankruptcy shall be given as provided in chapter 22.

(2) A court order rejecting a request for lapse of bankruptcy shall not be open to appeal.

Chapter 11 — **Public receivership**

Section 1 — *Transfer to public receivership*

(1) At the request of the Bankruptcy Ombudsman, the court may decide that the bankruptcy is to continue under public receivership, if this is to be deemed justified owing to the insufficient means of the bankruptcy estate or the need for the debtor or the estate to be scrutinised, or for some other special reason. The order may be made even if a creditor assumes liability for the costs of the bankruptcy proceedings.

(2) At the request of the Bankruptcy Ombudsman, the court shall reserve the estate administrator and, at its discretion, the debtor and the main creditors

an opportunity to be heard. Chapter 10, sections 4 and 5, contain provisions on the fee of the administrator.

Section 2 — *Effects of a transfer to public receivership*

(1) When the court order on a transfer to public receivership has been made, the appointment of the estate administrator and the authority of the creditors in bankruptcy shall cease. The administration of a bankruptcy estate under public receivership shall be the duty of a person appointed by the Bankruptcy Ombudsman and meeting the qualifications of an estate administrator (*public receiver*), to whose possession the assets of the estate shall be surrendered.

(2) The provisions elsewhere in this Act on the estate administrator apply, in so far as appropriate, to the public receiver. If the funds of the bankruptcy estate evidently suffice for the payment of disbursements to the creditors, the public receiver may make an order on the lodgements of claims as provided in this Act. The public receiver shall discharge the duty of the estate administrator to provide accounts as instructed by the Bankruptcy Ombudsman.

(3) The Bankruptcy Ombudsman may cancel the appointment of a public receiver, if there is reason for the same.

Section 3 — *Costs of the public receivership*

The costs of bankruptcy proceedings arising from public receivership shall be paid from state funds in so far as the funds of the bankruptcy estate are insufficient for the same. The Bankruptcy Ombudsman shall decide on the compensation.

Section 4 — *Conclusion of the public receivership*

(1) The public receiver shall prepare the final settlement of accounts of the bankruptcy estate, as provided in chapter 19. The final settlement of accounts shall be checked and accepted by the Bankruptcy Ombudsman.

(2) The final settlement of accounts shall be delivered to the debtor. The final settlement of accounts need be delivered to the creditors only if the funds of the bankruptcy estate suffice for the payment of disbursements.

Section 5 — *Restoration of the administration of a bankruptcy estate*

(1) If it becomes evident in public receivership that the funds of the bankruptcy estate suffice for the costs of the bankruptcy proceedings and if the restoration of the administration of the estate is otherwise justified, the court shall at the request of the Bankruptcy Ombudsman or a creditor appoint an estate administrator for the estate and order that the estate be restored to the administration of the creditors.

(2) The Bankruptcy Ombudsman shall present the debtor and the main creditors with his or her request for the appointment of an estate administrator and the restoration of the administration of the bankruptcy estate. At its discretion, the court may hear the debtor and the creditors at the request. If the request has been filed by a creditor, the court shall reserve the Bankruptcy Ombudsman, the public receiver and, at its discretion, the debtor and the other creditors an opportunity to be heard.

Section 6 — *Notification and appeals*

(1) Notices on a transfer to public receivership and on the restoration of the administration of a bankruptcy estate shall be given as provided in chapter 22.

(2) A court order on the continuation of a bankruptcy under public receivership or on the restoration of the bankruptcy estate to the administration of the creditors shall not be open to appeal.

Chapter 12 — **Claims in bankruptcy, lodgement and the scrutiny of the claims**

Section 1 — *General provisions on the status of a creditor in bankruptcy*

(1) Regardless of nationality, residence or domicile, the creditor has the right to lodge his or her claim and collect on it in bankruptcy, as well as to exercise the other rights of a creditor under this Act.

(2) The creditor may receive disbursements towards his or her claim from the liquidated assets of the debtor, receive payment from the assets of the debtor that form security for the claim, or use the claim for set-off against a debt owed to the debtor, as provided in this Act and elsewhere in the law.

(3) However, the provisions in paragraphs (1) and (2) do not apply to a creditor whose claim's enforceability has expired before the beginning of bankruptcy in accordance with the provisions in chapter 2, sections 24–26, of the Enforcement Act. The creditor shall, however, retain the right to payment from the assets of the debtor that form security for the claim, as well as to use the claim for set-off. The provisions in this paragraph do not apply in the bankruptcy of a decedent's estate. (786/2004)

Section 2 — *Claims in foreign currency*

If a claim is denominated in a foreign currency, its value shall be determined in Finnish currency in accordance with the exchange rate of the date of the beginning of bankruptcy.

Section 3 — *Joint liabilities*

(1) A creditor may lodge a claim against the debtor to the amount outstanding at the beginning of bankruptcy, without regard to later payments received from guarantors. However, the creditor does not have this right if the guarantor has paid the main claim in full before the lodgement date referred to in section 5.

(2) The provisions in paragraph (1) on a guarantor apply also to a provider of third-party collateral and a co-debtor in a joint liability relationship with the debtor in bankruptcy.

Section 4 — *Restrictions of the right of the creditor to payment*

(1) The creditor has no right to collect on a claim in bankruptcy relating to a salary, wages, fees or some other comparable remuneration in so far as the claim is evidently disproportionate to what can be deemed reasonable in view of the performed work and the other circumstances, should the claim be disputed on this basis.

(2) A tax payable to a foreign state and a comparable public fee levied in another state cannot be taken into account in bankruptcy, if such a claim would be contrary to Finnish public policy or if Finnish taxes or public fees are not recognised in insolvency proceedings in the foreign state.

Section 5 — *Setting the lodgement date*

(1) If no petition for lapse of bankruptcy has been filed after the estate inventory is completed, the estate administrator shall without undue delay set a date when the creditors are at the latest to lodge their claims (*lodgement date*). The lodgement date shall be no earlier than one month and no later than two months from the setting date.

(2) The estate administrator shall without delay notify the court of the setting of the lodgement date. Chapter 22 contains provisions on the announcement and notices relating to the lodgement of a claim in bankruptcy (*lodgement of claim*).

(3) An order on the lapse of bankruptcy may be made regardless of the setting of the lodgement date, as provided in chapter 10.

(4) The estate administrator may set a new lodgement date, if there is need for the same owing to an error in the setting of the date or some other reason.

Section 6 — *Lodgement of claim*

(1) In order to be entitled to a disbursement, a creditor shall lodge a claim in bankruptcy in writing (*letter of lodgement*), by delivering it to the estate administrator no later than on the lodgement date, unless the claim is to be taken into account without lodgement.

(2) A claim lodged to the court no later than on the lodgement date shall be deemed to have been lodged on time. A claim lodged by the creditor after the lodgement date can be taken into account only under the preconditions provided for retroactive lodgements.

(3) Section 17 contains provisions on lodgements of claim in the bankruptcy of an issuer of securities.

Section 7 — *Letter of lodgement*

(1) The letter of lodgement shall contain the following information:

(1) the capital amount of the claim, the interest accrued up to the beginning of bankruptcy, the interest claimed after the beginning of bankruptcy, the overdue interest or other consequences of late payment or, if the amount or the maximum amount of the claim cannot be supplied, the reason for the same;

(2) the basis for the claim, in sufficient detail;

(3) the basis for the interest, in sufficient detail, and the period for which interest is being claimed;

(4) whether precedence is requested for the claim and the basis for the request;

(5) information on the establishment and contents of a right of collateral, if the creditors holds assets belonging to the debtor as collateral for the claim;

(6) the name and contact details of the creditor, as well as the person or the unit to whom any inquiries relating to the lodgement of the claim can be addressed.

(2) The creditor shall provide the estate administrator with precise and detailed information as to the contract, commitment or other written evidence invoked by the creditor and as to the whereabouts of the documents, if they are not handed in to the administrator.

Section 8 — *Taking a claim into account without lodgement*

(1) The estate administrator may take a claim in bankruptcy into account in the draft disbursement list without lodgement, if there is no dispute about the basis and amount of the claim. In this event, the administrator shall, well in advance of the lodgement date, send to the creditor a notice of the amount at which the claim is being entered in the draft disbursement list. If a large number of claims with the same or a similar basis can be deemed undisputed in the said manner, the administrator may, instead of separate notifications,

publish an announcement in a suitable manner to the effect that no lodgements of claim are required.

(2) A claim based on an employment relationship and entered by the estate administrator into the registers referred to in section 13 of the Pay Security Act (866/1998; *palkkaturvalaki*) or in section 11 of Seamen's Pay Security Act (1108/2000; *merimiesten palkkaturvalaki*) shall be deemed to have been lodged.

(3) The provisions in paragraphs (1) and (2) shall not prevent the creditor from lodging a claim.

Section 9 — *Notice of claim secured by collateral*

(1) A creditor who wants payment out of collateral given by the debtor shall provide the estate administrator with the information on the claim and the collateral that should be provided in a letter of lodgement. The notice shall be given no later than on the lodgement date or, if the creditor takes earlier measures for the liquidation of the collateral, well in advance of the said measures. If measures for the liquidation of the collateral have been taken before the beginning of bankruptcy, notice of the claim and the collateral shall be given without delay after the beginning of the bankruptcy. If the creditor without a valid reason gives notice of the claim only after the lodgement date, the creditor shall pay into the bankruptcy estate an amount corresponding to the charge referred to in section 16(1).

(2) The claim referred to in paragraph (1) shall be scrutinised in accordance with the provisions of this Act on the scrutiny of lodged claims and other claims to be taken into account in the draft disbursement list.

Section 10 — *Notice of third-party collateral*

A creditor who holds assets belonging to the debtor as security for the debt of a third party, shall at the request of, and within a time limit set by, the estate administrator provide the information on the receivable and the collateral that should be provided in a letter of lodgement. In any event, the information shall be provided before the creditor takes measures for the liquidation of the collateral. If the creditor without a valid reason fails to provide the said information, the creditor shall pay into the bankruptcy estate an amount corresponding to the charge referred to in section 16(1).

Section 11 — *Lodgement of a right based on a business mortgage*

(1) A creditor who holds a business mortgage over the assets of the debtor, as referred to in the Business Mortgages Act (634/1984; *yrityskiinnityslaki*), as security of a claim against the debtor in bankruptcy or a debt owed by some other debtor shall lodge the claim as provided in this Act.

(2) The claim referred to in paragraph (1) shall be scrutinised in accordance with the provisions of this Act on the scrutiny of lodged claims and other claims to be taken into account in the draft disbursement list.

Section 12 — *Notice of a claim to be used for set-off*

(1) A creditor who wishes to use his or her claim for set-off against a debt owed to the debtor shall, when giving notice of the set-off, provide the estate administrator with the information that should be provided in a letter of lodgement. If the creditor without a valid reason gives notice of the claim only after the lodgement date, the creditor shall pay into the bankruptcy estate an amount corresponding to the charge referred to in section 16(1).

(2) The claim referred to in paragraph (1) shall be scrutinised in accordance with the provisions of this Act on the scrutiny of lodged claims and other claims to be taken into account in the draft disbursement list.

Section 13 — *Taking precedence into account*

The estate administrator shall take the precedence rank of a claim into account in the draft disbursement list, if such precedence has been requested or if the basis of the precedence is provided in sufficient detail in the letter of lodgement, or if the administrator otherwise is aware of the basis of the precedence.

Section 14 — *Verification of lodged claims*

(1) The estate administrator shall verify the legitimacy of the lodged claims and their possible precedence ranks to an extent called for by proper administrative practice. If the administrator notices that a lodgement contains an arithmetical or typographical error or some other similar clear error, the estate may rectify the lodgement on his or her own motion. The creditor shall be notified of the rectification, unless this is evidently unnecessary.

(2) If the letter of lodgement is written in a language other than Finnish or Swedish, the estate administrator shall see to it that the contents of the letter are translated into one of these languages in so far as necessary.

(3) The provisions in paragraphs (1) and (2) apply also to claims referred to in sections 9, 10 and 12.

Section 15 — *Supplementing a lodgement of claim*

(1) The estate administrator shall exhort a creditor to supplement or rectify the lodgement, if the administrator notices in it a shortcoming or error that is significant in view of the scrutiny of the claim. At request, the creditor shall also deliver to the administrator the documents that are needed for scrutinising the creditor's claim.

(2) If the creditor notices a shortcoming or error referred to in paragraph (1), he or she may supplement or rectify the lodgement also after the lodgement date. After the lodgement date, the creditor may lodge a new claim or make other additional demands only as a retroactive lodgement referred to in section 16.

(3) The provisions in paragraphs (1) and (2) apply also to claims referred to in sections 9, 10 and 12.

Section 16 — *Retroactive lodgement of claim*

(1) A creditor may lodge a claim or make an additional claim also after the lodgement date (*retroactive lodgement*), if the creditor pays in the bankruptcy estate a charge amounting to one per cent of the amount of the lodged claim or additional claim. In any event, the charge shall not be less than EUR 600 nor more than EUR 6,000. If the creditor has not been notified of the lodgements or there has been a valid excuse for not lodging the claim, the charge shall not be collected. The charge shall likewise not be collected, if the creditor is a private individual and the collection of the charge would be unreasonable in view of the creditor's circumstances.

(2) If it has become necessary for the creditor to lodge a claim owing to a recovery action or if the claim for some other reason was not known nor ought to have been known to the creditor before the lodgement date, the estate administrator shall reserve the creditor a reasonable time for lodging the claim. In this event, the charge for retroactive lodgement referred to in paragraph (1) shall not be collected. The administrator may waive the creditor's duty of retroactive lodgement, if there is no need for such a lodgement.

(3) A retroactive lodgement shall no longer be taken into account when the disbursement list has been certified. However, the provisions of chapter 13, section 16, apply to the inclusion of a claim in a certified disbursement list.

Section 17 — *Lodgement of claims in the bankruptcy of an issuer of securities*

(1) A creditor's claim based on a security issued by the debtor, as referred to in chapter 1, section 2, of the Securities Markets Act (495/1989; *arvopaperimarkkinalaki*), shall be taken into account in the draft disbursement list without need for lodgement, provided that the information on the rightholders are contained in a book-entry register or otherwise reliably available in a register or account kept of the rightholders. In other events, the rightholder shall within two years of the beginning of bankruptcy deliver to the estate administrator the security or, if no written instrument has been issued, the information on the claim that should be provided in a letter of lodgement.

(2) The estate administrator shall mention the points referred to in paragraph (1) in the announcement of the beginning of bankruptcy or in a later announcement. Moreover, the administrator shall publish the announcement in the same manner as the issuer of securities when fulfilling a statutory duty of information, as well as in the other manners ordered by the court.

(3) Section 22 of the Act on the Financial Supervision Authority (587/2003; *laki Rahoitustarkastuksesta*) contains provisions on the attorney to be appointed to supervise the liquidation of the bankruptcy estate.

Chapter 13 — **Draft disbursement list and certification of the disbursement list**

Section 1 — *Draft disbursement list*

(1) The estate administrator shall draw up a draft of how the assets of the estate are to be disbursed to the creditors (*draft disbursement list*), unless it is evident that the creditors will receive no disbursements from the assets of the estate. The draft disbursement list shall contain the following information:

(1) the claims conferring a right to disbursement and their precedence ranks;

(2) the claims secured by collateral lodged in the bankruptcy or notified to the estate administrator, the information on the collateral, as well as information on claims to be used for set-off;

(3) information on the claims or precedence requests rejected by the estate administrator (*disputes*) and the basis for the dispute;

(4) other remarks on claims and lodgements, such as retroactive lodgements and the collected charges, as well as information on the rectification or supplementing of claims;

(5) pending court proceedings or other proceedings relating to the claims;

(6) the date of completion of the draft disbursement list.

(2) Claims of low precedence, as referred to in section 6 of the Act on the Ranking of Claims, may be omitted from the draft disbursement list.

Section 2 — *Deadline of the draft disbursement list and its delivery*

(1) The estate administrator shall draw up the draft disbursement list within two months of the lodgement date or, if the bankruptcy estate is extensive, within four months of the lodgement date (*deadline of the draft disbursement list*). At the request of the administrator, the court may for a special reason extend this deadline.

(2) The estate administrator shall deliver the draft disbursement list or a notice of its completion to the debtor and to the creditors who have requested the same. The draft disbursement list shall be delivered without request to those creditors whose claims the administrator has disputed or whose lodgements are otherwise subject to remarks by the administrator.

(3) The draft disbursement list shall be accompanied with a note of the right of a creditor or the debtor to dispute a claim.

Section 3 — *Statement on the draft disbursement list*

A creditor may make a statement on the draft disbursement list in so far as it concerns the creditor's claim or lodgement. The statement shall be delivered to the estate administrator before a time limit set by the administrator, not to exceed one month from the date of completion of the draft disbursement list.

Section 4 — *Disputes by a creditor or the debtor*

(1) A creditor may dispute the claim of another creditor or its precedence rank, as entered into the draft disbursement list. The dispute may concern also a claim disputed by the estate administrator. Also the debtor may dispute a claim. The dispute shall be detailed and accompanied with reasons.

(2) The creditor and the debtor shall deliver their written comments containing disputes to the estate administrator within one month of the date of completion of the draft disbursement list. A dispute raised after this time limit shall not be taken into consideration.

Section 5 — *Hearing the creditor*

(1) Where the claim of a creditor has been disputed by another creditor or the debtor, the estate administrator shall reserve the creditor an opportunity to be heard on the dispute and to present evidence in support of his or her claim. If the creditor makes a statement, the administrator shall reserve the disputing party another opportunity to make a statement, if necessary. The administrator may also present his or her own position on the dispute and the statements of the creditor, and inform the parties of this position.

(2) The evidence and the statements on the dispute shall be requested in a suitable manner. Evidence and statements provided after the time limit set by the estate administrator may be omitted from consideration.

Section 6 — *Raising a new dispute*

Also after the completion of the draft disbursement list, the estate administrator may dispute a claim that had been accepted in the draft. The creditor whose claim has been so disputed shall be reserved an opportunity to be heard, as provided in section 5. The administrator may raise new disputes until such time that the disbursement list is submitted to the court.

Section 7 — *Consideration of retroactive lodgements*

If a claim becomes apparent after the submission of the draft disbursement list and the claim is be taken into consideration in the draft on the basis of a retroactive lodgement, the estate administrator shall rectify the draft. Before such rectification, the administrator shall reserve the creditors referred to in section 2(2) and the debtor an opportunity to dispute the claim, unless this is to be deemed manifestly unnecessary owing to the insignificance of the claim or some other reason. Also the administrator may dispute the claim. The provisions in sections 3–6 and section 8 apply, in so far as appropriate, to the dispute and the consideration thereof.

Section 8 — *Settlement*

At any stage of the proceedings, the parties may settle any disputes on the claims. The estate administrator shall promote the amicable resolution of disputes to the extent required by proper practice of estate administration.

Section 9 — *Acceptance of claims*

(1) A claim or the precedence rank of a claim that has not been disputed on time or that has been disputed, but the dispute has been withdrawn, shall be considered accepted.

(2) If the claim of a creditor has been disputed, the right of the creditor to a disbursement shall be determined on the basis of the decision on the dispute. If court proceedings on the claim are already pending in a court of general jurisdiction or if the case is being dealt with in some other proceedings, the disbursement towards the claim shall be determined in accordance with the amount set in the court proceedings or other proceedings.

Section 10 — *Estate administrator's disbursement list*

(1) After having heard the creditors and the debtor, the estate administrator shall draw up a disbursement list (*estate administrator's disbursement list*) by revising the draft disbursement list as he or she sees fit on the basis of the disputes and statements. The administrator shall also rectify the typographical and arithmetical errors and other clear errors in the draft disbursement list.

(2) The estate administrator shall submit the disbursement list for certification by the court no later than three months of the deadline of the draft disbursement list. If a claim has been disputed, the administrator shall attach the documents relating to the dispute to the disbursement list submitted to the court. If the hearing of the parties has not been completed or if negotiations towards a settlement are under way, the administrator shall notify the court of the same.

(3) The estate administrator's disbursement list shall be delivered to the debtor and to the creditors who have requested such delivery. The disbursement list shall be delivered without a request to those creditors who have disputed a claim or whose claim has been disputed.

Section 11 — *Hearing of disputes*

(1) Once the estate administrator has submitted the disbursement list to the court, the court shall hear the disputes and the other disagreements relating to the lodgements.

(2) A dispute shall be accepted in so far as it is evidently justified or in so far as the creditor whose claim it concerns has admitted it as correct. A manifestly ill-founded dispute shall be rejected. If the matter has already been decided by a *res judicata* ruling or if a court of general jurisdiction is not competent to consider it, the dispute shall be ruled inadmissible.

Section 12 — *Procedure on disputes*

(1) If a dispute cannot be resolved on the basis of the available evidence, its hearing shall continue, in so far as appropriate, in accordance with the provisions on civil procedure.

(2) If the party raising the dispute does not appear in the court session, the dispute shall be considered withdrawn. If the creditor whose claim has been disputed does not appear, the claim cannot be taken into the disbursement list beyond an amount that is clearly justified or beyond an amount covered by

the part of a dispute withdrawn by the party concerned. In this event, the matter shall be decided by a court judgment.

(3) If a party has not presented a requested written statement which would indicate his or her position to issues raised in the request, the consequence shall be the same as if the party had failed to appear in court session.

Section 13 — *Rectification on the basis of a retroactive lodgement*

If a creditor lodges a claim only after the estate administrator's disbursement list has been submitted to the court, the administrator shall notify the court of the same and, in accordance with the provisions in section 7, submit a rectified disbursement list to the court. A charge shall be collected from the creditor for the retroactive lodgement as provided in chapter 12, section 16.

Section 14 — *Certification of the disbursement list*

(1) The court shall verify that the estate administrator's disbursement list meets the requirements set in section 1 and that the procedural provisions relating to the draft disbursement list have been observed. The court shall also make a decision on any disputed claim, unless the dispute is to be resolved separately.

(2) If the estate administrator's disbursement list has been drawn up as provided in paragraph (1), the court shall certify the disbursement list and make an order as to which claims shall receive disbursements (*certified disbursement list*).

(3) If there is a typographical or arithmetical error or some other clear error in the estate administrator's disbursement list, the court may on its own motion require that the administrator rectify the error.

Section 15 — *Appeals and notification of the decision*

(1) A court order on the certification of the disbursement list shall be open to appeal by a creditor or the debtor where the decision in the matter is contrary to their disputes or statements. Also the estate administrator may appeal against the order, if the disbursement list has been certified otherwise than in accordance with the draft submitted by the administrator.

(2) The court shall notify the date of certification of the disbursement list to the estate administrator and to the creditors and debtor raising disputes or making statements.

(3) If the disbursement list is amended on appeal, the amendment shall affect all creditors.

Section 16 — *Rectification and amendment of a certified disbursement list*

(1) The provisions in chapter 24, section 10, of the Code of Judicial Procedure on the rectification of a judgment apply to the rectification of a typographical or arithmetical error or another clear error in a certified disbursement list.

(2) At the request of the estate administrator or a creditor, the court may take into consideration, in the disbursement list, a claim or a precedence rank that has been omitted from consideration owing to an error, neglect or some other comparable reason not attributable to the creditor. The disbursement list may likewise be amended if it has become necessary for the creditor to lodge the claim owing to a recovery action or if the claim for some other reason was not known and ought not to have been known to the creditor before the certification of the disbursement list.

(3) If need be, the court may exhort the estate administrator to give notice of a request for the amendment of the disbursement list to the debtor and the

creditors whom the court would hear. A claim requested to be included in the disbursement list may also be disputed. The provisions in sections 3–6 and section 8 apply to the dispute and the procedure thereon.

Section 17 — *Consequence of a decision on a creditor's claim*

A decision on a creditor's claim in bankruptcy determines the right of the creditor to payment out of the assets of the bankruptcy estate.

Chapter 14 — **Administration of a bankruptcy estate**

Section 1 — *General provision on the scrutiny of a bankruptcy estate*

A bankruptcy estate shall be scrutinised efficiently, economically and speedily, without compromising anyone's rights.

Section 2 — *Creditors' authority*

The authority in the bankruptcy estate shall be exercised by the creditors in so far as the matter is not by law to be decided or dealt with by the estate administrator.

Section 3 — *Estate administrator in the bankruptcy estate*

(1) The estate administrator shall discharge his or her duties conscientiously and in accordance with proper practice of estate administration. He shall discharge his or her duties to the common interest of all creditors.

(2) In discharging his or her duties, the estate administrator shall comply with the instructions and orders issued by the creditors on matters within their authority.

Section 4 — *Supervision of the administration of bankruptcy estates*

The Act on the Supervision of the Administration of Bankruptcy Estates (109/1995; *laki konkurssipesien hallinnon valvonnasta*) applies to the supervision of the administration of bankruptcy estates.

Section 5 — *Duties of the estate administrator*

(1) The estate administrator shall have the following duties:

(1) take possession of the assets of the estate, including accounting materials and documents, and see to the management and maintenance of the assets;

(2) take the necessary measures for the collection of the debtor's receivables and the securing of the claims belonging to the estate, as well as for the cancellation of contracts that are not needed from the point of view of estate administration;

(3) take the measures of the estate administrator relating to pay security;

(4) scrutinise the extent of the estate, as well as the possibilities to reverse transactions and recover assets to the estate;

(5) draw up the estate inventory and the debtor description;

(6) set the lodgement date, receive the lodgements and scrutinise the claims that can be taken into consideration in the disbursement list on the basis of lodgements or otherwise, and draw up the disbursement list;

(7) see to the sale of assets belonging to the estate;

(8) disburse the funds to the creditors in accordance with the disbursement list and draw up the final settlement of accounts for the bankruptcy;

(9) see to the current management of the estate and discharge the other duties of the estate administrator provided in this Act or elsewhere in the law or otherwise incumbent on an administrator.

(2) A temporary estate administrator shall take the necessary measures for taking possession of the assets of the bankruptcy estate and for their management, as well as the safeguarding of the financial interests of the bankruptcy estate and the prevention of losses.

(3) In order to discharge his or her duties, the estate administrator is entitled to executive assistance from the police, as provided in section 40 of the Police Act (393/1995; *poliisilaki*).

Section 6 — *Representation of the bankruptcy estate*

(1) The estate administrator shall represent the bankruptcy estate. If there are several administrators, all of them shall represent the estate. If the court has allocated duties to the administrators or appointed an estate administrator for a specific duty, the administrator shall represent the bankruptcy estate only in matters relating to his or her duty.

(2) The bankruptcy estate cannot invoke the lack of capability or competency of the estate administrator as against a third party who is in good faith.

(3) The opposing party or a third party cannot invoke the lack of capability or competency of the estate administrator.

(4) The provisions in paragraphs (2) and (3) shall not preclude the filing of a demand for compensation on the grounds of the lack of capability or competency of the estate administrator.

Section 7 — *Assistants of the estate administrator*

The estate administrator may avail himself or herself of the aid of experts or assistants in the discharge of his or her duties in so far as expedient in view of the scrutiny of the estate.

Section 8 — *Authority of the estate administrator*

(1) The estate administrator shall deal with and decide matters pertaining to the drawing up of the estate inventory or the debtor description, the scrutiny of the claims, the drawing up of the disbursement list, or pay security, as well as the other matters specified in the law or by their nature incumbent on the administrator.

(2) The estate administrator has the authority to decide on matters of the current administration of the bankruptcy estate, unless the creditors have specifically decided otherwise for a given matter.

(3) The estate administrator has the authority to decide on measures within the authority of the creditors that cannot be delayed without causing harm to the bankruptcy estate. Before such measures, the administrator shall, if possible, hear the creditors' committee referred to in section 12 or the main creditors.

Section 9 — *Assignment of authority*

The creditors may assign authority to the estate administrator in respect of matters within their authority. However, authority cannot be assigned in respect of matters of the general arrangements of the supervision of the estate administration, the fee of the administrator or the surrender of the bankruptcy estate into bankruptcy. The decision of the creditors shall specify the extent and duration of the transfer of authority, as well as the manner in which the administrator is to notify the creditors of his or her decisions. The creditors may also decide that the administrator is to obtain the consent of the

creditors' committee for his or her decisions referred to in this section. At any time, the creditors may cancel the assignment in full or in part.

Section 10 — *Prohibition to implement illegal decisions*

The estate administrator shall not implement a decision of the creditors if it is illegal or beyond the authority of the creditors.

Section 11 — *Estate administrator's duty to present reports and information*

(1) Every year, the estate administrator shall draw up a report of the administration of the bankruptcy estate (*annual report*), unless the creditors' meeting has decided that a report is to be presented at shorter intervals. The annual report shall be drawn up before the end of the calendar month when the bankruptcy originally began.

(2) The annual report shall contain specific information on the following:

(1) the management and liquidation of assets belonging to the bankruptcy estate;

(2) any pending court proceedings where the bankruptcy estate is a party and on other court proceedings with significance to the estate;

(3) the costs and liabilities of the bankruptcy estate;

(4) disbursements and advance disbursements paid out;

(5) an estimate of the probable time of conclusion of bankruptcy and the reasons for that estimate;

(6) other issues of scrutiny and administration of the estate that are significant to the creditors.

(3) The annual report shall be presented to the main creditors and the debtor and at request also to other creditors.

(4) At request, the estate administrator shall provide the creditors also with information on the bankruptcy estate and its administration not referred to in paragraph (2).

Section 12 — *Creditors' committee*

(1) The creditors may establish a creditors' committee, an advisory body that assists the estate administrator, supervises his or her activities and discharges the duties assigned to it by the creditors' meeting. A creditors' committee shall be established for an extensive bankruptcy estate, unless there is a special reason for not establishing one.

(2) If no creditors' committee has been established for an extensive bankruptcy estate, the court may establish one at the request of the estate administrator or a creditor. The court shall reserve the main creditors and, at its own discretion, also other creditors an opportunity to be heard so as to take due note of the opinions of the various creditor groups. The court may issue instructions as it deems necessary on the composition, duties and term of the committee.

(3) The creditors' committee shall have a composition where the main creditor groups are represented. The committee shall have at least three members. The committee shall elect a chairperson from among its members. The estate administrator or the chairperson shall convene the committee. Decisions in the committee shall be made by simple majority voting.

(4) In order to discharge their duties, the creditors' committee and its members have the right to receive information from the estate administrator to the extent necessary.

Section 13 — *Confidentiality*

(1) The estate administrator, a creditor, a member of the creditors' committee, an employee of the same or an assistant or expert retained by the same shall not disclose to third parties nor use for personal gain information received in the context of the bankruptcy proceedings and pertaining to the financial situation, state of health or other personal circumstances of the debtor or the business or professional secret of the debtor or the bankruptcy estate, unless the party in whose interests the duty of confidentiality has been enacted consents to the disclosure, or unless otherwise provided by law. The duty of confidentiality shall not prevent the estate administration from using the information in so far as necessary for the management or scrutiny of the estate or the liquidation of the assets.

(2) The debtor shall not disclose to third parties nor use for personal gain information received in the context of the bankruptcy proceedings and pertaining to the business or professional secret of the bankruptcy estate, unless the party in whose interests the duty of confidentiality has been enacted consents to the disclosure, or unless otherwise provided by law. The debtor shall likewise not disclose or use a business or professional secret pertaining to his or her pre-bankruptcy operations, if it is evident that the disclosure or use may decrease the value of the assets of the estate or hamper the liquidation of such assets.

Section 14 — *Penalty for breach of the duty of confidentiality*

The penalty for a breach of the duty of confidentiality provided in section 13 shall be governed by chapter 38, section 1 or 2, of the Penal Code (39/1889; *rikoslaki*), unless a more severe penalty for the act is provided elsewhere in the law.

Chapter 15 — **Exercise of the creditors' authority**

Section 1 — *Right to exercise the creditors' authority*

(1) The right to exercise the creditors' authority shall belong to those creditors who have a claim in bankruptcy against the debtor. After the lodgement date, the right shall belong only to those creditors who have lodged their claim or whose claim can otherwise be taken into consideration in the disbursement list, as well as to creditors protected by collateral who have presented an account of their claim. If the creditor is to pay a charge referred to in chapter 12, section 16(1), the creditor has the right referred to herein only after the charge has been paid.

(2) In a matter pertaining to assets covered by a business mortgage, the authority may be exercised, subject to the criteria provided in paragraph (1), also by those creditors who hold assets belonging to the debtor and covered by a business mortgage as security of a third party's debt.

Section 2 — *Decision-making procedures*

(1) The creditors shall exercise their authority in the creditors' meeting. A meeting may also be held by the participants being in contact over the telephone, a video link or some other technical means.

(2) For purposes of decision-making, the estate administrator may request that the creditors express their positions in writing, by an electronic message or some other suitable means in a matter that otherwise would have to be dealt with by the creditors' meeting (*alternative decision-making procedure*). The time limit for expressing a position shall not be less than two weeks, unless the urgency of the matter otherwise necessitates. Also the debtor shall be reserved

an opportunity to express a position in the matter. The decision and the time when it was made in alternative decision-making procedure shall be notified at least to the creditors and debtor who expressed a position.

Section 3 — *Creditors' voting strengths*

(1) Each creditor shall have a voting strength equal to his or her current claim in bankruptcy. A junior claim shall confer no votes, if it is evident that no disbursement towards the claim will be made. A conditional, disputed or otherwise unclear claim shall be assessed at its probable amount. A conditional claim in recovery shall, however, confer a vote if the creditor does not exercise a vote based on the same claim.

(2) The voting strength of a creditor who holds assets belonging to the debtor and covered by a business mortgage as security for a third party's debt shall be at most the same as the debt covered by the prioritised amount of the mortgaged assets.

(3) In the event of disagreement, the estate administrator or, if the matter is discussed in the creditors' meeting, the chairperson shall decide the voting strength conferred by a claim.

Section 4 — *Decision of the creditors*

(1) The decision of the creditors' meeting shall be constituted by the opinion that has the support of creditors whose total voting strength is more than one half of that of all creditors participating in the vote. In alternative decision-making procedure, votes shall be counted on the basis of the voting strengths of the creditors expressing a position. If there is a tie or if no creditors participate in the meeting or express a position, the chairperson of the creditors' meeting and the estate administrator in alternative decision-making procedure shall make the decision. The estate administrator and the debtor shall always be entitled to express a position on a matter to be decided.

(2) If the business operations or the assets or a part thereof of a debtor company are to be assigned as a going concern to an assignee which is, or whose owner is, connected to the debtor, the owner of the debtor company or a creditor, as referred to in paragraph (3), the decision on the assignment requires the support of both those creditors whose claims exceed one half of the claims secured by collateral or some other reason and those creditors whose claims exceed one half of the remainder of the claims. A claim secured by a right of retention giving rise to collateral or precedence, or by a business mortgage over the assets of the debtor, shall be considered a claim with precedence in so far as, according to the estate administrator's estimate, the value of the collateral covers the claim.

(3) The provision in paragraph (2) applies when the assignee or, if the assignee is a corporation, a person with at least a one-fifth share in its ownership, is connected, as referred to in section 3 of the Act on the Recovery of Assets into a Bankruptcy Estate, to one of the following:

(1) the debtor of a person or company who holds at least a one-fifth share in the ownership of the debtor corporation or has held such a share during the year preceding the beginning of the bankruptcy; or

(2) a creditor whose claim represents at least one fifth of the total debts of the debtor.

Section 5 — *Disqualification*

(1) A creditor shall not vote in a matter:

(1) which concerns a contract between the creditor and the debtor or the bankruptcy estate;

(2) which concerns a liability of the creditor towards the debtor or the bankruptcy estate; or

(3) where the creditor is likely to gain a specific personal or financial advantage.

(2) The provision in paragraph (1) on a creditor applies also to the representative or attorney of the creditor.

(3) In case of disagreement the estate administrator or, if the matter is being discussed in the creditors' meeting, the chairperson shall decide whether the creditor is disqualified.

Section 6 — *Convocation of the creditors' meeting*

(1) The estate administrator shall convene the creditors' meeting. The first meeting shall be held within two months of the completion of the estate inventory and no later than six months from the beginning of bankruptcy, unless it for a special reason is unnecessary to hold a meeting. In other events, the creditors' meeting shall be convened if necessary.

(2) The creditors' committee and the creditors whose claims represent at least one tenth of the lodged claims and the other claims to be included in the disbursement list have the right to demand the convocation of the creditors' meeting to deal with a matter they put forward.

(3) If the estate administrator fails to convene the creditors' meeting regardless of a demand referred to in paragraph (2), the court may at the request of a creditor and in accordance with the provisions in chapter 8, section 10, compel the estate administrator to convene the meeting. If the creditor has requested the convocation of the meeting to deal with a matter the creditor has put forward, but the estate administrator has not deemed it necessary to convene a meeting, the creditor may submit the request to the court for a decision.

Section 7 — *Invitation of minor creditors*

A creditor whose claim amounts to less than EUR 3,000 shall after the lodgement date be invited to a creditors' meeting or requested for a position only if the creditor has notified the estate administrator in advance of his or her wish to participate in the decision-making. Even if the creditor has not given such a notice, he or she shall be entitled to participate in the exercise of authority.

Section 8 — *Invitation to the creditors' meeting*

Before the lodgement date, an invitation to the creditors' meeting shall be sent to all known creditors and to the debtor. The invitation shall also be published in the *Official Gazette* and in one or several suitable daily newspapers no later than two weeks before the meeting. After the lodgement date, the invitation shall be sent to the creditors who are entitled to exercise the creditors' authority and to the debtor. The invitation shall be sent with sufficient promptness.

Section 9 — *Creditors' meeting*

(1) The estate administrator shall chair the creditors' meeting. The creditors shall elect a chairperson if the estate administrator is disqualified or otherwise prevented from attending.

(2) The meeting may decide only matters mentioned in the invitation and such other matters that must be decided urgently. However, if the matter is significant, it may only be decided if notified to the creditors and the debtor no later than one week before the meeting. The meeting may always decide a matter if all creditors invited to the meeting consent to the same. The consent of an absent creditor may also be obtained afterwards.

(3) The chairperson of the meeting shall see to it that minutes are kept of the meeting to the extent required by good administrative practice. The minutes shall be checked and, at request, sent to the debtor and the creditors. If the meeting has decided matters other than those mentioned in the invitation, the minutes shall always be sent to the debtor.

Section 10 — *Prohibition of unreasonable decisions*

The creditors shall not make decisions conducive to conferring an unjust advantage to a creditor or someone else at the expense of the bankruptcy estate or another creditor, or decisions that are manifestly unreasonable to a creditor or the debtor.

Section 11 — *Overturning and amendment of the creditors' decisions*

(1) At the request of the debtor or a creditor, the court may overturn a decision by the creditors or, if possible under the circumstances of the matter, amend the decision, if it has not been made in accordance with the correct procedure and the procedural error may have affected the outcome, or if the error can otherwise be considered significant, or if the decision is contrary to section 10.

(2) A person who has attended the creditors' meeting and wishes to request the overturning of the decision shall at once declare his or her discontent to the chairperson, or else forgo the right to protest. If the decision has been made in alternative decision-making procedure, the declaration of discontent shall be delivered to the estate administrator no later than one week of the estate administrator's notification of the decision. If the last day of this time limit is not a weekday, the declaration can be delivered on the next weekday. A creditor who participated in the decision-making may request overturning only if the decision has been contrary to his or her position. A creditor who has not attended the creditors' meeting regardless of an appropriate invitation cannot invoke a procedural error in the decision-making. The same provision applies to a creditor who has not expressed a position in alternative decision-making procedure even though the estate administrator has reserved him or her the opportunity to do so.

Section 12 — *Request for the overturning or amendment of the creditors' decision*

(1) The request for the overturning or amendment of the creditors' decision shall be filed within one month of the creditors' meeting or, if the decision has been made in alternative decision-making procedure, within one month of the estate administrator's notification of the decision. If the request for overturning is filed by someone who has not received notice of the meeting nor attended it, or if the estate administrator has barred the debtor from the meeting when the matter has been discussed, the time limit shall run from the time when the estate administrator has notified the requester of the decision or the requester has otherwise become aware of the decision. The request shall in any event be filed no later than three months from the decision.

(2) The estate administrator shall exercise the bankruptcy estate's right to be heard, except if the creditors who supported the decision decide self to exercise this right. The estate administrator shall see to it that these creditors are notified of the application.

Chapter 16 — **Bookkeeping and liabilities of the bankruptcy estate**

Section 1 — *Bookkeeping of the bankruptcy estate*

(1) The bankruptcy estate shall keep such books as warranted by the extent and nature of the estate. The estate administrator shall see to it that the bookkeeping of the bankruptcy estate has been appropriately organised.

(2) The creditors shall decide on auditing. However, auditing shall be required of extensive bankruptcy estates.

Section 2 — *Liabilities of the bankruptcy estate*

(1) The bankruptcy estate shall be liable for the debts arising from the bankruptcy proceedings or based on a contract or commitment entered into by the estate, as well as for the debts for which the estate is liable under this Act or some other Act (*administrative expenses*).

(2) The bankruptcy estate shall likewise be liable for the reasonable debts arising from the keeping of the debtor's books during the two months before the beginning of the bankruptcy. However, this liability shall not apply to debts owed to a person employed by the debtor.

Section 3 — *Liability of the debtor*

The debtor shall be liable for the liabilities of the bankruptcy estate only with the assets of the bankruptcy estate.

Chapter 17 — **Management and sale of assets belonging to the bankruptcy estate and provisions on creditors protected by collateral**

Section 1 — *Management of assets*

Assets of the bankruptcy estate shall be managed with due care and expediency.

Section 2 — *Handling of monetary assets*

(1) Monetary assets of the bankruptcy estate shall be handled reliably and kept apart from other funds.

(2) In so far as they are not needed for the expenses of the estate, the monetary assets of a bankruptcy estate shall be invested appropriately and safely, if they cannot at once be disbursed to the creditors.

Section 3 — *General provisions on the sale of assets*

(1) The bankruptcy estate shall liquidate the assets of the estate in the manner most advantageous to the estate, so that the result of the sale is as good as possible.

(2) At the request of the estate, assets of the bankruptcy estate may also be sold in accordance with the provisions of the Enforcement Act, if the bailiff consents to the same. However, no such consent shall be needed if the sale concerns real estate or a mortgageable vessel or aircraft. Section 14 contains provisions on the sale of collateral in accordance with the provisions of the Enforcement Act.

Section 4 — *Restraint of transfers concerning the estate administrator and connected persons*

The estate administrator shall not acquire assets belonging to the bankruptcy estate. The estate administrator shall see to it that assets are not sold or otherwise transferred to his or her assistants nor to persons connected to the estate administrator or an assistant.

Section 5 — *Effect of appeal on a sale*

If the debtor has appealed against the order of bankruptcy, the appellate court may at the request of the debtor enjoin the bankruptcy estate from selling more assets than necessary for the avoidance of losses or the payment of the expenses of estate administration and the management of assets, or issue other instructions on the sale of the assets. The injunction and the instructions shall remain in effect until the appellate court otherwise orders.

Section 6 — *Proceeds of collateral*

The proceeds of collateral accruing during the bankruptcy shall come to the benefit of the creditor secured by the collateral; they shall be disbursed no later than together with the disbursement of the sale price.

Section 7 — *Expenses arising from collateral*

(1) Once the costs of sale and enforcement have been covered, the bankruptcy estate shall be entitled to compensation for the necessary costs of the management and sale of collateral, including the fee of the estate administrator for the sale.

(2) If the bankruptcy estate has entrusted the creditor protected by collateral to see to the management of collateral belonging to the estate, the creditor shall have the same right as the bankruptcy estate to compensation for the necessary costs of the management.

Section 8 — *Right of the bankruptcy estate to sell collateral*

(1) The bankruptcy estate may sell collateral belonging to the estate only if the creditor protected by the collateral consents to the same or if the court grants permission to the same under section 13.

(2) If the bankruptcy estate sells collateral and the claim secured by the collateral is not repaid, the collateral shall remain bound unless the protected creditor otherwise agrees or unless it is otherwise provided below. The same provision applies also to other rights secured by assets.

Section 9 — *Transfer of precedence rank*

If the bankruptcy estate repays a claim secured by collateral, the precedence rank enjoyed by the creditor protected by the collateral shall be transferred to the estate.

Section 10 — *Compensation for the premature repayment of the claim secured by collateral*

When a claim secured by collateral has become due at the beginning of bankruptcy in accordance with chapter 3, section 9, the creditor shall be entitled, from the value of the collateral, to an amount that the debtor would have been liable to pay had the creditor called in the claim owing to a breach of contract on the part of the debtor.

Section 11 — *Right of a creditor protected by collateral to the liquidation of the collateral*

(1) Notwithstanding a bankruptcy, a creditor protected by collateral may exercise his or her right of liquidation of collateral and collect on his or her claim out of the sale price, in so far as not otherwise provided in sections 12–14. However, the protected creditor shall first give notice of the claim to the estate administrator as provided in chapter 12. Also the interests of the bankruptcy estate shall be taken into account in the liquidation of the collateral.

(2) Well in advance of the sale, the creditor shall notify the estate administrator of the manner of the sale and its date, time and location. The creditor shall without delay provide the bankruptcy estate with an account of the sale of the

collateral and on the use of the sale price, as well as hand the possible surplus over to the estate.

(3) If the creditor has taken measures for the liquidation of the collateral in violation of the provisions of paragraph (1) or (2), the court may at the request of the bankruptcy estate enjoin or stay the measures or order other measures necessary for the safeguarding of the interests of the estate.

(4) If the collateral has been sold in violation of the provisions in paragraph (1) or (2), the creditor shall pay into the bankruptcy estate an amount corresponding to the charge referred to in chapter 12, section 16(1).

Section 12 — *Prohibition of the sale of collateral*

(1) In order to scrutinise the rights of a creditor protected by collateral or to safeguard the interests of the bankruptcy estate, the estate may prohibit, for at most two months, the creditor from taking or continuing measures for the liquidation of the collateral. The prohibition shall take effect once the estate has verifiably served it on the creditor. When the estate has received a notice referred to in section 11(2) from the creditor, it shall serve the prohibition on the creditor within two weeks of having been so notified. The prohibition may be issued only once.

(2) The bankruptcy estate may waive in advance its right to use the right referred to in paragraph (1).

(3) If the creditor protected by the collateral has taken measures for the liquidation of the collateral in violation of paragraph (1), the provisions in section 11(3) shall be observed.

(4) The bailiff shall discontinue enforcement proceedings once the bankruptcy estate has notified the bailiff of the prohibition referred to in paragraph (1). If an announcement on the sale of the collateral covered by the prohibition has already been published, the bankruptcy estate shall be liable for the costs arising from the cancellation of the sale event.

Section 13 — *Sale of collateral by permission of the court*

(1) At the request of the bankruptcy estate, the court may grant the estate a permission to sell collateral belonging to the estate, if an offer for the purchase of the collateral has been made to the estate, the offer exceeds the likely auction price of the collateral and the creditor protected by the collateral does not establish the probability that a better result of the sale of the collateral can be achieved by other means. The court shall reserve the protected creditors an opportunity to be heard. The court order on the permission shall indicate the essential terms of the sale. In the permission, the protected creditor shall be instructed to surrender the collateral, the mortgage instruments or the other corresponding mortgage documents to the bankruptcy estate so that they can be handed over to the buyer in consideration for the sale price.

(2) When the request of the bankruptcy estate referred to in paragraph (1) has become pending, the court may at the request of the estate enjoin the protected creditor from taking measures for the liquidation of the collateral or stay the measures.

(3) The bankruptcy estate may sell the collateral once the court order on the permission becomes *res judicata*. The sale shall be effected free of liens or pledges. The sale price shall be disbursed in the same manner as funds collected by way of distraint are disbursed. The estate administrator shall give notice of the mortgages pertaining to the sold collateral to be cancelled in so far as the mortgage instruments or comparable mortgage documents could not be handed over to the buyer.

(4) If a sale referred to in paragraph (1) is reversed, the protected creditor shall again become entitled to liquidate the collateral and the estate shall not again be permitted to sell it.

Section 14 — *Sale of collateral in accordance with the Enforcement Act*

(1) The bankruptcy estate may request for collateral to be sold also in accordance with the Enforcement Act; however, in the absence of consent by the creditor protected by the collateral, the request may be filed no sooner than three years after the beginning of the bankruptcy. The request shall be accompanied by evidence that the protected creditor has been notified of the sale no later than three months before the filing of the request and that the creditor has not during the following two months thereafter filed any request for the prohibition of the sale.

(2) At the request of the protected creditor, the court may enjoin the bankruptcy estate from applying for a sale referred to in paragraph (1), if there is a special reason for the same on the basis of the foreseeable appreciation in the value of the collateral or some other similar circumstance, or if the sale cannot be justified in view of the stage of the scrutiny of the estate and the costs of the management of the collateral by the estate. The injunction may be issued for at most one year at a time. The court shall reserve the other creditors protected by the same collateral an opportunity to be heard. If the request of the creditor is rejected, the estate may request for a sale once the court order becomes *res judicata*.

(3) When collateral is being sold in accordance with paragraph (1), no minimum acceptable offer shall be set for real estate to be sold and movable property may be sold free of pledges.

Section 15 — *Remittance for the sale of distrained property*

Once the liquidation costs and the claims secured by the distrained assets on some other basis than a business mortgage have been paid, the bailiff shall remit any surplus to the bankruptcy estate.

Section 16 — *Lapse of distraint*

The distraint of assets of a bankruptcy estate shall lapse once the assets are sold. The estate administrator shall see to it that the bailiff is notified of the sale. The bailiff shall notify the registration authority of the lapse as provided in the Enforcement Act.

Section 17 — *Business mortgages and pledged securities*

(1) The provisions in this chapter on a creditor protected by collateral do not apply to a creditor who is protected by a business mortgage over assets belonging to the bankruptcy estate. If assets covered by a business mortgage are sold in accordance with the Enforcement Act, as provided in section 3(2), the order of priority pertaining to the funds thus accrued shall be determined in accordance with the provisions governing bankruptcy.

(2) The provision in this chapter restricting the right of a protected creditor to liquidate the collateral do not apply to a creditor holding listed securities belonging to the bankruptcy estate as a pledge.

Chapter 18 — **Disbursement**

Section 1 — *General provisions on disbursement*

(1) Disbursements to the creditors in bankruptcy shall be paid out in accordance with the certified disbursement list. Before the disbursement list is certified,

disbursements may be paid out to the creditors in accordance with section 3 and advance disbursements may be paid out under section 4.

(2) Once the bankruptcy estate has been scrutinised and its assets have been liquidated, the remainder of the funds shall without delay be disbursed to the creditors.

Section 2 — *Insignificant disbursement*

If a creditor would receive from the bankruptcy estate a disbursement not exceeding EUR 50, the claim of the creditor may be omitted from consideration when paying out disbursements.

Section 3 — *Disbursement by decision of the estate administrator*

(1) The estate administrator may pay out disbursements, at their probable final amount, to the creditors with claims of an insignificant amount, if this is expedient in view of the proceedings and if the creditor does not object to the disbursement within a time limit set by the estate administrator. The interest, overdue interest or other penalties for late payment accruing on the claim shall be omitted from the calculation of the disbursement.

(2) The bankruptcy estate and the creditor shall be precluded from claiming at a later stage that the amount of the final disbursement would have been larger or smaller than the amount paid out under paragraph (1).

Section 4 — *Advance disbursement*

(1) Advance disbursements shall be paid out when the estate has enough monetary assets for the same and when the payment of advances can be deemed expedient in view of the stage of scrutiny of claims, the amount to be disbursed and the costs of the disbursement. The payment of advance disbursements shall not compromise the capacity of the bankruptcy estate to meet its own liabilities.

(2) The Act on the Ranking of Claims shall be observed in the payment of advance disbursements, unless some other order is more advantageous for the bankruptcy estate and if the right of the creditors to correct disbursements is not compromised.

(3) The recipient of an advance disbursement may be required to post security. However, no security shall be required of a public corporation, an agency or association subject to public law or a creditor whose liquidity in the event of repayment can otherwise be considered clear.

Section 5 — *Advances towards a claim secured by collateral and an unclear claim*

If the value of collateral does not cover the claim of the creditor protected by the collateral, any advance disbursement shall be paid out for that part of the claim that will probably not be covered by the collateral. If the creditor's claim is conditional, disputed or otherwise unclear, advance shall be paid out for that part of the claim that the estate administrator considers probable at the time of the assessment.

Section 6 — *Disbursement and joint liability*

If a guarantor has made a payment to the creditor after the beginning of the bankruptcy, he or she shall receive a disbursement for the claim in recovery arising from this payment only after the creditor has received full payment for the main claim for which the guarantor is liable. The same provision applies to a provider of third-party collateral and a co-debtor with joint liability with the debtor in bankruptcy, where these have made a payment to the creditor after the beginning of the bankruptcy.

Section 7 — *Disbursement on the basis of the final settlement of accounts*

The estate administrator shall pay out disbursements to the creditors once the final settlement of accounts has been approved, unless there is reason, because of an appeal, to postpone the disbursement until the order is *res judicata*.

Section 8 — *Subtraction of a disbursement from an amount to be repaid*

A disbursement payable to a creditor may be subtracted from the amount that the creditor would have to repay into the bankruptcy estate because of a recovery action or some other reason. Likewise, the creditor may subtract the disbursement due to him or her from the amount to be repaid.

Section 9 — *Postponement of disbursement*

(1) A disbursement or an advance disbursement may be postponed, if the claim of the creditor is not final, if the creditor has not been reached or if there is some other impediment to the disbursement.

(2) The interest accruing on a disbursement or advance disbursement referred to in paragraph (1) shall belong to the bankruptcy estate. However, after the approval of the final settlement of accounts, the interest shall accrue to the creditor.

Section 10 — *Forfeiture of disbursement in certain cases*

(1) If the creditor's claim is conditional, disputed or otherwise unclear, and the creditor has not within three years of the approval of the final settlement of accounts notified the estate administrator of the final amount of the claim or the reason for which the claim has not become final, the creditor shall forfeit the right to disbursement. A new time limit shall begin as of the date of the notification. The disbursement thus forfeited by the creditor shall be divided among the other creditors entitled to disbursements. If the division of the funds is not expedient owing to their insignificant amount, the number of creditors and the costs of the division, the funds shall be remitted to the State.

(2) The provision in paragraph (1) applies correspondingly to a creditor who has not been reached or who for some other reason has not received a disbursement payout.

Section 11 — *Duty of repayment*

A creditor shall repay any surplus advance disbursements to the estate, if the advance has exceeded the final disbursement and the amount of the repayment cannot be taken from security posted by the creditor. Interest on the amount to be repaid shall accrue from the date of payment to the date of repayment, as provided in section 3(2) of the Interest Act (633/1982; *korkolaki*). The estate administrator may decide that the advance is not to be recovered, if the surplus is insignificant or the recovery is otherwise inexpedient.

Chapter 19 — **Final settlement of accounts of a bankruptcy estate and belated scrutiny**

Section 1 — *General provisions on final settlement of accounts*

(1) Once the bankruptcy estate has been scrutinised and the assets belonging to the estate liquidated, the estate administrator shall draw up a final settlement of accounts.

(2) The final settlement of accounts may be drawn up even if the estate is partially unscrutinised because collateral, or other assets of little value, have not been

sold or because a claim in bankruptcy or an insignificant part of the claims is unclear.

Section 2 — *Contents of the final settlement of accounts*

(1) The final settlement of accounts shall contain an account of the administration of the bankruptcy estate and of the disbursements paid out to the creditors.

(2) The account of the administration shall indicate the following:

(1) the income and expenditures of the bankruptcy estate during the proceedings and, separately, the fee and compensation of the estate administrator and the information on their payment;

(2) information as to what part of the estate remains unscrutinised and the measures necessary in the estate for this reason.

(3) The account of the disbursements shall indicate the following:

(1) a list of the disbursements and advance disbursements paid out to the creditors;

(2) a list of the disbursements yet to be paid out to the creditors and the schedule of the payouts;

(4) The estate administrator shall attest the final settlement of accounts by his or her signature.

Section 3 — *Agreement on the finalisation of the bankruptcy estate*

The estate administrator and the Bankruptcy Ombudsman may agree that the measures necessary for the scrutiny of the bankruptcy estate, as referred to in section 2(2)(2), be transferred to be taken by the Bankruptcy Ombudsman or an assignee of the Bankruptcy Ombudsman.

Section 4 — *Approval of the final settlement of accounts*

(1) The final settlement of accounts shall be approved by the creditors' meeting.

(2) The estate administrator shall notify the Legal Register Centre of the approval of the final settlement of accounts. More precise provisions on the contents of the notice may be issued by a Decree of the Ministry of Justice.

Section 5 — *Rectification of an approved final settlement of accounts*

(1) If the final settlement of accounts contain a typographical or arithmetical error or some other clear error, and the rectification of the same is necessary for the adjustment of the disbursements or some other reason, the estate administrator shall on his or her own motion or at the request of a creditor rectify the error. The estate administrator may submit the rectification to be approved by the creditors, if this is necessary owing to the significance of the rectification.

(2) Rectification shall not be made after the disbursements have been paid out to the creditors.

(3) A decision of the estate administrator on the rectification of an error referred to in paragraph (1) shall not be open to appeal. Section 6 contains provisions on objections to the decision of the creditors.

Section 6 — *Objections to the final settlement of accounts*

(1) The provisions in chapter 15, sections 11 and 12, apply to objections to the decision of the creditors' meeting in a matter pertaining to the approval of the final settlement of accounts.

(2) When an application referred to in paragraph (1) has become pending, the court may at the request of the estate administrator grant the administrator

the permission to pay disbursements out to the creditors before the decision in the matter has become *res judicata*.

Section 7 — *Conclusion of bankruptcy*

Bankruptcy shall end once the final settlement of accounts have been approved.

Section 8 — *Retention of documents*

The estate administrator shall retain the key documentation relating to the scrutiny and administration of the bankruptcy estate, the liquidation of the assets and the management of the estate for at least ten years after the approval of the final settlement of accounts. However, the provisions in the Accounting Act (1336/1997; *kirjanpitolaki*) apply to the retention of the accounting materials of the debtor and the bankruptcy estate. More precise provisions on the documents to be retained shall be issued by a Decree of the Ministry of Justice.

Section 9 — *Belated scrutiny*

(1) If new funds appear after the end of the bankruptcy or scrutiny measures are otherwise necessary, the estate administrator has the right to take the necessary measures without a specific appointment. The estate administrator is entitled to a reasonable fee and to compensation for his or her reasonable costs from the assets of the estate. The estate administrator shall draw up an account of his or her measures. The account shall be presented to the creditors concerned, unless this is evidently unnecessary owing to the minor significance of the matter.

(2) If the estate administrator is prevented from taking the measures referred to in paragraph (1) or if necessary owing to the insufficient means of the estate, the court may at the request of the Bankruptcy Ombudsman order a belated scrutiny to be done in accordance with the provisions on public receivership, in so far as appropriate.

(3) In the disbursement of new funds in the bankruptcy estate, insignificant disbursements may be omitted in accordance with the criteria provided in chapter 18, section 2. If the disbursement of the funds is not expedient owing to their little amount, the number of creditors and the cost arising from the disbursement, the funds shall be remitted to the State.

Chapter 20 — **Liability in damages**

Section 1 — *Estate administrator's liability in damages*

(1) The estate administrator shall be liable in damages for any loss that he or she or an assistant referred to in chapter 14, section 7, has caused to the bankruptcy estate through deliberate action or negligence while discharging their duties. The same provision applies to loss caused to a creditor, the debtor or someone else in violation of this Act.

(2) A corporation on whose behalf the estate administrator is discharging his or her duties shall be jointly and severally liable in damages for the loss caused by the estate administrator or the assistant while discharging their duties.

Section 2 — *Creditor's liability in damages*

A creditor in bankruptcy shall be liable in damages for any loss that he or she has caused to the bankruptcy estate, a creditor, the debtor or someone else through deliberate action or gross negligence by contributing to conduct contrary to the provisions of this Act.

Section 3 — *Debtor's liability in damages*

The debtor shall be liable in damages for any loss that he or she has caused to the bankruptcy estate or a creditor, if he or she has essentially failed to discharge the duty of co-operation provided in this Act.

Section 4 — *Adjustment and apportionment of liability*

The Tort Liability Act (412/1974; *vahingonkorvauslaki*) contains provisions on the adjustment of the liability in damages and the apportionment of liability among several liable parties.

Section 5 — *Statute of limitations*

The right to the damages referred to in sections 1 and 2 shall expire as provided in the Act on the Expiry of Debts (728/2003; *laki velan vanhentumisesta*).

Chapter 21 — **Composition**

Section 1 — *Prerequisites for a composition*

(1) A composition, concluding the bankruptcy proceedings, may be certified in a bankruptcy. The prerequisites for a composition are that:

(1) the composition is supported by the debtor and by creditors whose voting strengths amount to no less than 80 per cent of the total votes of the creditors, as well as by every creditor whose voting strength is at least 5 per cent of the total votes of the creditors;

(2) the creditors who have not consented to the composition receive, by virtue of the composition, a disbursement at least equal to that they would have received had the bankruptcy proceedings continued; and

(3) the liabilities of the bankruptcy estate have been paid or sufficient security has been posted for them.

(2) A composition shall not restrict the rights of a creditor protected by collateral who objects to it.

(3) The composition document shall contain an assessment of the estate administrator of the disbursements referred to in paragraph (1)(2).

Section 2 — *Court decision on disbursement*

(1) At the request of a creditor referred to in section 1(1)(2), the court shall decide whether the disbursement payable to the creditor by virtue of the composition corresponds to the final disbursement. The creditor shall file the request within one month of having been notified of the composition. The debtor shall be reserved an opportunity to be heard at the request.

(2) A court order deciding a request relating to the disbursement shall be separately open to appeal.

Section 3 — *Certification of the composition*

(1) At the request of the debtor, the court shall certify the composition if it meets the prerequisites provided in section 1 and a request referred to in section 2 has not been filed on time. If a request has been filed, the composition shall be taken up for a hearing once the decision on the request relating to the disbursement has become *res judicata*.

(2) However, at the request of a creditor who has objected, the composition cannot be certified if it violates the equality of the creditors or is otherwise unreasonable from the point of view of the creditor.

Section 4 — *Legal effects of the certification of a composition*

The certification of a composition shall conclude the bankruptcy proceedings. The appointment of the estate administrator and the authority of the creditors in bankruptcy shall cease.

Chapter 22 — **Announcement, notices and the bankruptcy register**

Section 1 — *Announcement of the beginning of bankruptcy*

(1) When deciding on an order of bankruptcy, the court shall see to the publication of an announcement of the beginning of bankruptcy.

(2) The announcement shall be published in the *Official Gazette* without delay. The court may also order that the estate administrator is to publish the announcement in one or several daily newspapers. If there is a special reason, the court may also order that the estate administrator is to publish the announcement abroad in a suitable manner.

(3) The announcement shall state that a separate notice will be given on lodgements of claim, unless the scrutiny of lodgements is unnecessary owing to insufficient funds or some other reason. More detailed provisions on the contents of the announcement shall be issued by a Decree of the Ministry of Justice.

Section 2 — *Notice of a court order relating to a bankruptcy petition*

(1) The court shall give appropriate notice of an order relating to bankruptcy to the debtor and to the creditor who filed the bankruptcy petition or who has otherwise been heard in the matter.

(2) If the debtor is declared bankrupt, the court shall without delay notify the estate administrator of the order. The estate administrator shall send notice of the announcement referred to in section 1 to the creditors. Provisions shall be issued by a Decree of the Ministry of Justice on the other notices of the beginning of bankruptcy to be given by the estate administrator.

Section 3 — *Announcement and notices of lodgements of claim*

(1) The estate administrator shall see to the publication of an announcement of lodgements of claim.

(2) The announcement shall be published in the *Official Gazette* without delay. More precise provisions on the contents of the announcement shall be issued by a Decree of the Ministry of Justice.

(3) The estate administrator shall send a notice of the announcement referred to in paragraph (1) to the debtor and to the creditors who have provided their contact details to the administrator or whose contact details are otherwise known to the administrator.

(4) The court shall see to the delivery of information on lodgements of claim to be entered into the register of public notices.

Section 4 — *Announcements and notices of public receivership and of the end of bankruptcy in certain situations*

(1) When deciding on the quashing of an order of bankruptcy or on the reversal of bankruptcy, the court shall see to the publication of the relevant announcement. At the request of the debtor, a similar announcement shall be published on the lapse of bankruptcy and the certification of a composition. In this event, the debtor shall be liable for the costs of the announcement.

(2) The announcement shall be published in the *Official Gazette* without delay. More precise provisions on the contents of the announcement shall be issued by a Decree of the Ministry of Justice.

(3) The court shall give notice of the reversal of bankruptcy to the debtor and to the creditor who filed the bankruptcy petition or who has otherwise been heard in the matter, as well as to the estate administrator. The estate administrator or the public receiver shall give notice of other orders referred to in paragraph (1), public receivership or the restoration of the administration of the bankruptcy estate to the debtor and the creditors, as instructed by the court. Provisions shall be issued by a Decree of the Ministry of Justice on the other notices to be given by the estate administrator or the public receiver relating to the public receivership or the end of the bankruptcy.

Section 5 — *Means of service*

(1) The estate administrator may send the notices, invitations and other notifications and documents, as referred to in this Act, in an appropriate manner by post or electronic message to an address supplied by a creditor or the debtor or to a postal address later notified by the creditor or debtor to the State Local Office. Notices may also be given by telephone, if written procedure is not necessary owing to the nature of the matter.

(2) Unless the estate administrator requests otherwise, the creditors and the debtor may send the statements, responses and notices, as referred to in this Act, to the estate administrator by the means referred to in paragraph (1).

Section 6 — *Time of delivery of an electronic message*

An electronic message shall be considered to have arrived on time, if it has arrived as provided in sections 10 and 11 of the Act on Electronic Services and Communication in the Public Sector (13/2003; *laki sähköisestä asioinnista viranomaistoiminnassa*).

Section 7 — *Register of bankruptcy matters*

Separate provisions apply to the register of bankruptcy matters.

Chapter 23 — **Miscellaneous provisions**

Section 1 — *Extensive bankruptcy estate*

For the purposes of this Act, an *extensive bankruptcy estate* means a bankruptcy estate where at least two of the following three criteria are met in the debtor corporation or foundation in the beginning of bankruptcy;

(1) according to the final accounts for the latest financial year, the balance sheet total exceeds EUR 2,100,000;

(2) according to the final accounts for the latest financial year, the turnover or the corresponding receipts exceed EUR 4,200,000;

(3) the average number of staff over the latest financial year has exceeded 50.

Section 2 — *Charge for the delivery of documents*

(1) The estate administrator may collect a charge for the copying and delivery of a document, if the document has been delivered at the request of the debtor or a creditor and the costs thus incurred cannot be considered regular.

(2) The costs of the translation of a letter of lodgement may be subtracted from the disbursement due to a creditor, if the letter has been delivered in a

language other than the official language of a Member State of the European Union and the costs cannot be considered insignificant.

Chapter 24 — **Entry into force and transitional provisions**

Section 1 — *Entry into force*

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

(2) This Act repeals the Bankruptcy Code of 9 November 1868 (31/1868; *konkurssisääntö*), as later amended (*the previous Act*).

Section 2 — *Transitional provisions*

(1) In so far as not otherwise provided in paragraphs (2)–(13), this Act applies to a bankruptcy that has begun after this Act has entered into force.

(2) If a bankruptcy petition is pending at the entry into force of this Act, the prerequisites for the beginning of bankruptcy shall be as provided in the previous Act. However, the debtor cannot be declared bankrupt if there is an impediment to the same under chapter 2, section 2(2) or section 4, of this Act.

(3) The provisions in chapter 4, sections 1–5, 7 and 9–12, on the status of the debtor in bankruptcy apply even if the bankruptcy has begun before this Act has entered into force.

(4) The provisions in chapter 8 on the estate administrator apply even if the bankruptcy has begun before the entry into force of this Act. However, the provisions on the fee of the estate administrator apply only if the estate administrator has been appointed after the entry into force of this Act. If a temporary administrator has been appointed before the entry into force of this Act, the previous Act applies to the temporary administrator.

(5) The provision in chapter 9, section 5, on the compensation payable for the failure to keep books does not apply, if the failure has occurred before the entry into force of this Act.

(6) The provisions in this Act on public receivership apply even if the bankruptcy has begun before the entry into force of this Act.

(7) The provisions in chapter 14 on the authority of the creditors and the estate administrator and on the assignment of the same apply even if the bankruptcy has begun before the entry into force of this Act. If the creditors have authorised the estate administrator to decide on certain measures while the previous Act was in force, the authorisation shall remain in effect for no longer than one year after the entry into force of this Act.

(8) The provisions in chapter 15 on the exercise of the authority of the creditors apply even if the bankruptcy has begun before the entry into force of this Act. However, they do not apply to a creditors' meeting for which the invitations have been sent before the entry into force of this Act. If the bankruptcy has begun before the entry into force of this Act, the voting strengths of the creditors shall be determined in accordance with the previous Act.

(9) The provisions in chapter 17 on the management of the assets of the bankruptcy estate and on creditors protected by collateral apply, with the exception of sections 10 and 12, even if the bankruptcy has begun before the entry into force of this Act; but however:

(a) section 6 does not apply to proceeds accruing before the entry into force of this Act;

(b) section 7 does not apply to costs arising from the management of the assets before the entry into force of this Act;

(c) section 9 does not apply to the repayment of a claim secured by collateral before the entry into force of this Act;

(d) sections 11 and 13–15 apply only after six months have passed from the entry into force of this Act, with the exception that the creditor protected by collateral shall not be subject to the duty of notification provided in section 11(1) even after that time.

(10) The provisions in chapter 18, sections 3–5, on the payment of disbursements by the decision of the estate administrator and on advance disbursements apply even if the bankruptcy has begun before the entry into force of this Act.

(11) The provisions in chapter 19 on final settlement of accounts and belated scrutiny apply even if the bankruptcy has begun after the entry into force of this Act.

(12) The provisions in chapter 20 on liability in damages do not apply to losses that have been caused before the entry into force of this Act.

(13) The provisions in chapter 21 on composition apply even if the bankruptcy has begun before the entry into force of this Act.

Section 3 — *References*

(1) If some other statute contains a reference to the Bankruptcy Code or some other enactment repealed by this Act, the reference shall be construed as pertaining to the corresponding provision in this Act.

(2) The provisions in some other statute on a bankruptcy trustee or executor apply to the estate administrator referred to in this Act.

(3) The provisions in some other statute on the date of appearance apply to the lodgement date referred to in chapter 12, section 5.