Insolvency Act

Wolters Kluwer
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ACT
of 30 March 2006

on Insolvency and Methods of its Resolution (Insolvency Act)

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The Parliament has adopted the following Act of the Czech Republic:

PART ONE
GENERAL PART

Chapter I
Basic Provisions

Section 1
Scope of Application

This Act regulates

a) resolution of the insolvency and imminent bankruptcy of the debtor by the court proceedings through one of the set methods in order to organise the property relations to persons affected by the debtor's insolvency or imminent bankruptcy and to achieve the highest possible and essentially proportional satisfaction of the debtor's creditors,

b) the debtor's discharge of debts.

Section 2
Definition of some Basic Terms

For the purposes of this Act

a) the insolvency proceedings mean the court proceedings, the subject of which is the debtor's insolvency or imminent bankruptcy and the method of its resolution,

b) an insolvency court means a court before which the insolvency proceedings are held,

c) an insolvency petition at the insolvency court means a petition filed for the commencement of the insolvency proceedings,

d) an incidental dispute means a dispute caused by the insolvency proceedings, which is provided by this Act and heard during the insolvency proceedings,

e) assets means property intended for the satisfaction of the debtor's creditors,

f) a person with handling authority means a person who in the course of the insolvency proceedings has the right to handle the assets in regards to all permissions that it is comprised of,

g) a secured creditor means a creditor whose receivables are secured by property which falls under the assets through mortgage, right of lien, restriction of the transfer of immovable property, collateral assignment or through a referral of receivables for securing or another similar right under an international legal regulation,

h) an application of a receivable means a procedural act, by which a creditor applies the satisfaction of its rights in the insolvency proceedings,

i) an Insolvency Register means an information system which contains information under this Act,

j) a common interest of the creditors means an interest superior to their individual interests, provided its goal is to ensure that the elected method of the resolution of the insolvency is fair for them and more profitable than any other method of its resolution; this however does not affect the special legal position of certain creditors guaranteed by law,

k) a financial institution means a bank, savings and credit union, insurance company or reinsurance company and under other conditions set out in this Act, also certain other persons.

Section 3
Insolvency

(1) A debtor is insolvent if they have

a) several creditors and

b) outstanding financial liabilities for more than 30 days overdue and

c) they are not able to fulfil such liabilities (hereinafter referred to as “financial insolvency”).

(2) It is believed that the debtor is not able to fulfil their financial liabilities if

a) they stopped the payments for the substantial part of their financial liabilities, or

b) they have defaulted for more than 3 months overdue, or

c) the satisfaction of any outstanding financial receivables against the debtor may not be achieved by the enforcement of a decision or the execution, or

d) they failed to comply with their obligation to submit the lists referred to in Section 104 Subsection 1, imposed upon them by the insolvency court.

(3) A debtor who is a legal entity or a natural person, i.e. an entrepreneur, is considered insolvent even if they have excess debts. If a debtor has several creditors and the total of their liabilities exceeds the value of their property, the debtor has excess debts. When estimating the value of the debtor’s property, the further management of their property or the further operation of their company is also taken into account, provided that given all the circumstances it may be reasonably assumed that the debtor will be able to continue with the management of their property or the operation of their company.

(4) An imminent bankruptcy occurs when given all the circumstances, it may be reasonably assumed that the debtor will not be able to duly and timely fulfil the substantial part of its financial liabilities.

Section 4
Method of the Resolution of the Insolvency

(1) The method of the resolution of the insolvency or an imminent bankruptcy of a debtor in the insolvency proceedings (hereinafter referred to as “the method of the resolution of the insolvency”) means

a) bankruptcy order,

b) restructuring,

c) discharge, and

d) special methods of resolution of the insolvency provided by this Act for specific bodies or certain types of cases.

(2) A decision of an insolvency court on the method of the resolution of the insolvency means,

a) if it is in regards to a bankruptcy order or any of the special methods of resolution of the insolvency, a decision on the declaration of the bankruptcy order for the debtor’s property (hereinafter referred to as “decision on the declaration of the bankruptcy order”),

b) if it is in regards to restructuring, a decision on the restructuring permit, and

c) if it is in regards to a discharge, a decision on the discharge permit.

Section 5
Principles of Insolvency Proceedings

Insolvency proceedings are mainly based on the following principles:

a) the insolvency proceedings must be held so that none of the participants in the proceedings has been unfairly damaged or illegally advantaged and that the highest possible satisfaction of the creditors could be achieved swiftly and economically;

b) the creditors, who have an identical or similar position under this Act, have essentially equal opportunities in the insolvency proceedings;

c) unless this Act stipulates otherwise, the rights of the creditors acquired before the commencement of the insolvency proceedings in good faith may not be restricted by the decision of the insolvency court nor by the process of the insolvency administrator;

d) the creditors are obligated to abstain from any action towards the satisfaction of their receivables outside of the insolvency proceedings unless it is permitted by law.

Section 6
Exceptions from the Effects of the Law

(1) This Act cannot be applicable if it is in regards to

a) the State,

b) the local government unit[2)],

c) the Czech National Bank,

d) the General Health Insurance Company of the Czech Republic,

e) the Deposit Insurance Fund,

f) the Guarantee Fund of the Securities Traders,

g) public non-profit institutional health facilities, established under a special Act[2a)],

h) a public college, or

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2) Article 99 of the Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended under the Constitutional Act No. 347/1997 Coll.

2a) Act No. 245/2006 Coll., on Public non-profit constitutional medical facilities and on the amendment of certain laws, as amended under the determination of the Constitutional Court declared under No. 483/2006 Coll.

i) a legal entity, if the State or the higher local government unit[2)] has assumed all its debts or guaranteed them on its behalf before the commencement of the insolvency proceedings.

(2) This Act can no longer be applicable if it is in regards to

a) a financial institution, for the period during which it is the license or permit holder under special legal regulations, governing its activity,

b) a health insurance company established under a special legal regulation[3)], for the period during which it is the permit holder for the provision of public health insurance,

c) a political party or political movement during the time of the declaration of the elections under a special legal regulation.

Section 7
Application of the Code of Civil Procedure

(1) The provisions of the Code of Civil Procedure[4)] shall apply to the insolvency proceedings and incidental disputes accordingly, unless this Act stipulates otherwise or unless such a procedure is in conflict with the principles upon which the insolvency proceedings are based on.

(2) In order to determine the local and material jurisdiction of the court that decides in the insolvency proceedings and incidental disputes, the provisions of the Code of Civil Procedure[5)] shall apply.

Section 8

The provisions of the Part One and Part Three of this Act shall apply unless this Act stipulates in regards to the method of the resolution of the insolvency in its Part Two otherwise.

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2) Article 99 of the Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended under the Constitutional Act No. 347/1997 Coll.

3) Act No. 280/1992 Coll., on Resort, departmental, commercial and other medical insurance companies, as amended.

4) Code of Civil Procedure.

5) Section 9 Subsection 4, Section 11, Section 84 through 89 of the Code of Civil Procedure.

Chapter II
Procedural Bodies

Division I
Procedural Bodies

Section 9

Procedural bodies under this Act are:

a) the insolvency court,
b) the debtor,
c) creditors who exercise their rights against the debtors,
d) the insolvency administrator or another administrator,
e) the Attorney General's Office which entered the insolvency proceedings or incidental dispute, and
f) the liquidator of the debtor.

Section 10
Insolvency Court

The insolvency court in the insolvency proceedings

a) issues decisions, the issue of which is required or assumed by law,
b) continuously supervises the process and activities of other procedural bodies and decides on related matters (hereinafter referred to as "supervision activities").

Section 11

(1) During the performance of the supervision activity, the insolvency court decides on the matters that relate to the course of the insolvency proceedings, takes measures necessary for the provision of its purpose and imposes obligations relating to the activity of individual participants in the proceedings.

(2) The insolvency court is entitled to request reports and explanations of the procedure from the insolvency administrator, to inspect their accounts and to perform the necessary investigations. It is also entitled to give orders to the insolvency administrator and instruct them to request the opinion of the creditors committee for certain issues.

Section 12

(1) A single judge acts and makes decisions in the insolvency proceedings and incidental disputes in the first instance.

(2) A special legal regulation[6)] shall stipulate when the higher judicial officer is entitled to act and make decisions during the insolvency proceedings.

Section 13
Assistant Judge of the Insolvency Court

The assistant judge of the insolvency court performs individual acts of the insolvency proceedings on the authority of the insolvency court judge.

Division II

Participants in the Proceedings

Section 14

(1) The participants in the insolvency proceedings are the debtor and creditors who exercise their right against the debtor.

(2) An accessory party is not admissible in the insolvency proceedings; the provisions of Section 16 Subsection 2 shall not be affected.

Section 15

Unless it is a registered creditor, other persons, exercising their rights in the insolvency proceedings, are considered to be participants in such proceedings only for the period during which the insolvency court acts and decides on such rights.

Section 16

(1) The participants in the proceedings in incidental disputes are the plaintiff and the defendant unless it is further stipulated otherwise.

(2) An accessory party to the incidental disputes is admissible.

6) Act No. 189/1994 Coll., on Senior court officials, as amended.

Section 17

Entry into the proceedings[7] and the substitution of the participant in the proceedings[8] are not admissible in insolvency proceedings.

Section 18

(1) If, during the course of the insolvency proceedings, a fact that the legal regulations connect the transfer or subrogation of the registered receivables from the original creditor to the acquirer of the receivable with, occurs without the original creditor losing the capacity to be a participant in the proceedings, the insolvency court shall decide that the acquirer of the receivable shall enter into the insolvency proceedings instead of such a creditor. It shall do so upon the basis of the petition of the creditor and upon the written consent of the acquirer of the receivable. The transfer or subrogation of receivables, which does not directly follow from the legal regulation, must be demonstrated by a public document[9] or a document which includes the officially certified signatures of the persons who have signed it.

(2) The insolvency court shall decide on the petition under Subsection 1 before the end of the working day following the day on which it received such a petition; failing to do so after the lapse of such period, it is considered that the insolvency court issued a decision which granted the petition.

(3) The insolvency court shall issue the decision referred to in Subsection 1 also if the creditor and the acquirer of the receivables make a joint statement into the transcript of such court that the fact referred to in Subsection 1 occurred; Subsection 2 shall apply accordingly.

(4) The decision under Subsection 1 and 3 shall be served to the creditor, the acquirer of the receivables, the debtor and the insolvency administrator; it shall be served to such persons separately. An appeal against it is not admissible; however, the insolvency court is not bound by such decision.

Section 19

The acquirer of the receivable becomes a participant in the insolvency proceedings as soon as the insolvency court decides on their entry into the insolvency proceedings under Section 18. The status of the insolvency proceedings applies to them during the period when they became the participant in the proceedings.

[7] Section 92 Subsection 1 of the Code of Civil Procedure.

[8] Section 92 Subsection 2 of the Code of Civil Procedure.

[9] Section 134 of the Code of Civil Procedure.

The acquirer shall thus replace the original creditor even in incidental disputes relating to receivables incurred by them.

Section 20

(1) The provisions of Part One, Chapter III of the Code of Civil Procedure, relating to acting on behalf of legal entities, the State and territorial self-governing units and the representatives of the participants in the proceedings shall apply for the insolvency proceedings and incidental disputes accordingly.

(2) Trade unions may represent an employee of the debtor in the insolvency proceedings and incidental disputes if it is in regards to the application of its labour receivables.

Division III

Insolvency Administrator and other Administrators

Section 21

(1) The insolvency administrator is appointed from the list of the insolvency administrators managed by the Ministry of Justice (hereinafter referred to as the "Ministry").

(2) The particulars of the list of insolvency administrators, the information recorded in it, its structure, management and terms of entry and creation of the right to perform activity as an insolvency administrator and the hosting insolvency administrator shall be governed by a special legal regulation[9a)].

(3) For the purposes of this Act, an insolvency administrator shall also mean a hosting insolvency administrator.

Section 22

(1) A person registered in the list of insolvency administrators may refuse their appointment into the position of an insolvency administrator only due to important reasons.

(2) If it is not possible to select an insolvency administrator from the list of insolvency administrators, it is possible to appoint a natural person who meets the general requirements and qualification for entry in the list and who consents to their appointment.

[9a)] Act No. 312/2006 Coll., on Insolvency administrators, as amended under Act No. 296/2007 Coll.

Section 23

An insolvency administrator shall conclude an agreement on liability insurance for the damage, which could arise in connection with the performance of their duties or the activities of their employees for the duration of their duties, at they own expense.

Section 24

(1) The insolvency administrator is excluded from the insolvency proceedings if, given their relationship to the matter or the participants in the proceedings, there is a reason to doubt their impartiality; this shall not apply in the case referred to in Section 34. Once the appointed insolvency administrator learns that there are reasons for their exclusion, they are obligated to immediately notify the insolvency court.

(2) An unlimited company appointed by an insolvency administrator shall immediately notify the insolvency court which of its partners will perform the duties of the insolvency administrator on its behalf; Subsection 1 shall apply to such partner accordingly.

Section 25

(1) The insolvency court shall appoint an insolvency administrator for the insolvency proceedings. If the decision on the bankruptcy is connected with the decision on the restructuring permit under Section 148 Subsection 2 and if there is an insolvency administrator designated in the submitted restructuring plan, the insolvency court shall appoint an insolvency administrator based on such plan; this shall not apply unless such appointed insolvency administrator meets the conditions set out in Section 21 through 24. The provisions of Section 29 shall not be affected.

(2) Unless it is the case referred to in Subsection 1, the insolvency court shall appoint an insolvency administrator based on the decision of the presiding judge of the insolvency court. When appointing an insolvency administrator, the presiding judge of the insolvency court shall, with respect to the existing status of the insolvency proceedings, take particular account of the debtor and their wealth, as well as the professional competence of the insolvency administrator and its burden. Unless other circumstances prevent it, the presiding judge of the insolvency court shall appoint the same person as an insolvency administrator for debtors, who form a group.

Section 26

An appeal against the decision on the appointment of an insolvency administrator is admissible. However, the appeal can only object against the fact that the appointed insolvency administrator fails to meet the conditions set out for their appointment or that they are not impartial. The facts that occurred or arose after the issue of the decision of the court of first instance shall not be taken into account in the appellate procedure.

Section 27

(1) The insolvency court shall appoint an insolvency administrator no later than in its decision on the bankruptcy. The insolvency court may, under the terms set out in this Act, appoint a provisional insolvency administrator (hereinafter referred to as "provisional administrator") before the decision on the bankruptcy; this decision shall be published in the same manner as the decision on the bankruptcy.

(2) The provisional administrator shall, before deciding on bankruptcy, perform the activities stipulated in this Act and imposed upon them by the insolvency court and they have the rights and obligations defined by such court. The insolvency court may not define these rights and obligations in a scope broader than that which the insolvency administrator is entitled to after the decision on the bankruptcy. Unless the insolvency court decides on the insolvency administrator in the decision on the bankruptcy otherwise, the provisional administrator becomes an insolvency administrator with full capacity after such decision.

(3) The provisions on the insolvency administrator shall also apply to the provisional administrator accordingly.

Section 28

Creditors institutions also decide on changes regarding the insolvency administrator under the terms stipulated by this Act; Section 21 through 24 shall apply to their decision accordingly.

Section 29

(1) The creditors may agree at the creditors meeting, which follows after the review meeting, that the insolvency administrator appointed by the insolvency court shall be removed from their position and that they will appoint a new insolvency administrator. Such resolution is adopted provided at least half of all creditors registered as of the day preceding the creditors meeting voted for it; their vote is in proportion to the amount of their receivables.

(2) The resolution on the appointment of an insolvency administrator under the provisions of Subsection 1 shall be confirmed by the insolvency court; it shall not confirm it only if the insolvency administrator fails to meet the conditions referred to in Section 21 through 24; Section 54 Subsection 1 shall not apply.

(3) The decision under Subsection 2 shall be issued by the insolvency court after the completion of the creditors meeting that adopted the resolution under Subsection 1; an appeal is admissible only if the insolvency court fails to confirm the resolution of the creditors meeting. A person entitled to file an appeal can only be a creditor that voted at the creditors meeting for the adoption of the resolution; Section 55 Subsection 1 shall apply accordingly.

Section 30

(1) If the creditors meeting adopts a resolution on the removal of an appointed insolvency administrator without the resolution on the appointment of a new insolvency administrator, or where an appointed insolvency administrator was removed from their position under Section 31 Subsection 2, the insolvency court shall appoint an insolvency administrator by its decision; Section 29 Subsection 1 shall not apply to such appointed insolvency administrator.

(2) If, due to the decision of the insolvency court to refuse the registration of a receivable, there is a change in creditors or the amount of their receivables, which could affect the outcome of the resolution of the creditors meeting under Subsection 1, the creditors meeting that next follows after such change may also adopt the resolution under Section 29 Subsection 1.

Section 31
Removal of an Insolvency Administrator

(1) The insolvency court may, upon the petition of an insolvency administrator or creditors institution, or even without such petition, remove an insolvency administrator from their position due to important reasons which do not originate from the violation of the obligations of the insolvency administrator. It shall usually do so after the hearing of the insolvency administrator; it shall decide on the filed petition immediately.

(2) The insolvency court shall remove an insolvency administrator appointed under Section 29 Subsection 1 through 3 even if they request it within 3 days of becoming aware of their appointment; this shall not apply if the insolvency administrator has given prior consent to their appointment.

(3) If the insolvency court removes an insolvency administrator from their position, it shall simultaneously appoint a new insolvency administrator. An appeal against such decision is admissible; however, an appeal against the statement

on the appointment of a new insolvency administrator is admissible only on grounds referred to in Section 26.

(4) A removed insolvency administrator is obligated to duly inform the new insolvency administrator of their current activities without undue delay and shall submit all the documents associated with the performance of their duty to them; their responsibility for their period of duty does not expire.

Section 32
Discharge of an Insolvency Administrator

(1) An insolvency court may, upon the petition of a creditors institution or a debtor or even without such petition, relieve an insolvency administrator who fails to duly fulfil their obligations or who fails to perform their duties with professional care or who grossly violates an important obligation imposed upon them by law or the court of their duties. It shall do so usually after the hearing of the insolvency administrator; it shall decide on the filed petition immediately.

(2) An appeal from an insolvency administrator and a person entitled to file a petition under Subsection 1 against the decision under Subsection 1 may be filed. The provisions of Section 31 Subsection 3 and 4 shall apply accordingly.

Section 33
Insolvency Administrator Representative

Where appropriate, the insolvency court may appoint a representative of the insolvency administrator in the event that they could not temporarily perform their duties due to a serious reason. Section 29 through 31 shall apply to an insolvency administrator representative, accordingly.

Section 34
Separate Insolvency Administrator

(1) If the insolvency administrator is excluded from certain acts due to their relationship to one of the debtor's creditors or only to one of the representatives of the debtor's creditors and, given the nature of the receivable of the debtor's creditors and their role in the insolvency proceedings, there are no reasons to doubt that such relationship should affect the whole manner of performance of the rights and obligations of the insolvency administrator, the insolvency court may appoint a separate insolvency administrator for such acts.

(2) If the insolvency administrator is excluded from certain acts because they could be contrary to the common interest of the creditors during the insolvency proceedings, during which they were also appointed as an insolvency

administrator, the insolvency court shall always appoint a separate insolvency administrator for such acts.

Section 35
Special Insolvency Administrator

(1) In cases when it is necessary to deal with a special issue requiring professional expertise during the insolvency proceedings, the insolvency court may also appoint a special insolvency administrator and amend their relationship with the insolvency administrator.

(2) The provisions on the insolvency administrator shall apply to the appointment into the position, the remuneration and removal of an insolvency administrator representative, separate insolvency administrator and a special insolvency administrator, accordingly.

(3) The court shall appoint a special insolvency administrator for the payment of receivables of the payment service users or holders of electronic money in the procedure stipulated by law governing the payments.

Section 36

(1) The insolvency administrator is obligated to proceed during the performance of their duties diligently and with due care; they are obligated to make every effort that may be reasonably required of them, so that the creditors are satisfied to the fullest extent possible. They are obligated to give priority to the common interests of the creditors over the interests of both their own and interests of other persons.

(2) The insolvency administrator shall provide all creditors institutions cooperation necessary for the proper performance of their duties; in particular, at the request of the creditors institution they shall take part in its hearings and at least once every 3 months submit a written report on the status of the insolvency proceedings to the creditors institution and the insolvency court.

Section 37

(1) The insolvency administrator is responsible for the damage or other loss caused to the debtor, to the creditors or third parties by the violation of their duties, which are imposed upon them by law or the decision of the court during the performance of their duties, as well as by the fact that they failed to proceed during the performance of their duties with professional care. The insolvency administrator shall be relieved of such responsibility only if they demonstrate that they were unable to prevent the damage or other loss despite all their efforts that

were reasonably required from them with respect to the course of the insolvency proceedings.

(2) Under Subsection 1, the insolvency administrator is also responsible for damage or other loss caused by another party which they used to carry out their tasks. This also applies to employees of the debtor, acting within the scope of their existing activities, or to other persons in a contractual relationship with the debtor.

(3) The insolvency administrator is responsible for damage or other loss which the creditor incurred with the receivable for the assets by the fact that it incurred a receivable on the basis of a legal act of the insolvency administrator which could not be satisfied; the insolvency administrator shall be relieved of such responsibility only if they prove that at the time when they performed such act, they could not know that the assets would not be sufficient to cover the incurred receivables for the assets.

(4) The right to damages or compensation for other loss against the insolvency administrator shall become statute-barred within 2 years after the victim became aware of the amount of damage and the liability of the insolvency administrator, however, no later than within 3 years, and if it is a damage caused by an intentional criminal offence for which the insolvency administrator was finally convicted, no later than within 10 years after the completion of the insolvency proceedings.

Section 38

(1) The insolvency administrator has the right to remuneration and the reimbursement of cash expenses. In the event of a bankruptcy order, the amount of remuneration shall be determined from the liquidation proceeds designated for the distribution among the creditors. If the insolvency administrator is liable for value-added tax, they are entitled to remuneration and reimbursement of cash expenses equivalent to the amount of such tax which the insolvency administrator is obligated to pay from the remuneration and the reimbursement of cash expenses under a special legal regulation[10)].

(2) The remuneration and reimbursement of cash expenses of the insolvency administrator shall be satisfied from the assets and if it is not enough then from the deposit for the costs for the insolvency proceedings; if the satisfaction is not possible from such sources, they shall be paid by the State.

(3) The insolvency administrator shall prepare the statement of remuneration and cash expenses in their final report and if it does not exist, then in the report on their activities. The insolvency court may, based on the circumstances of the case, appropriately increase or decrease the remuneration of the insolvency

[10)] Act No. 235/2004 Coll., on Value-Added Tax, as amended.

administrator after the meeting with the creditors committee. The reason for the reduction in remuneration is mainly the fact that the insolvency administrator violated some of their obligations or because they failed to petition the performance of a partial schedule, although the status of the liquidation of the assets permitted it.

(4) The insolvency court may decide on the payment of an advance of the remuneration to the insolvency administrator during the course of the insolvency proceedings and do so even repeatedly.

(5) The method of determination of the remuneration and some cash expenses of an insolvency administrator, their maximum admissible amount and the terms and scope of the payment of the remuneration and the reimbursement of cash expenses by the State shall be set out by the applicable legal regulation.

Section 39

(1) The creditors are entitled to, upon the consent of the insolvency court and based on the decision of the creditors committee, provide an advance for the payment of their expenses to the insolvency administrator and do so even repeatedly. When providing an advance, the terms for its accounting shall be determined; the purpose, for which the advance shall be spent, may also be determined.

(2) The costs of activities which the insolvency administrator is obligated to follow under the law or under the decision of an insolvency court are included in their remuneration and they shall cover it themselves. Exceptionally, they may appoint other persons for the performance of such activities on behalf of the assets with the consent of the insolvency court and the creditors committee; this shall not affect their responsibilities or obligations under this Act.

(3) The costs of the insolvency administrator associated with the use of legal, economic and other specialised professionals may be paid from the assets only if their use is purposeful given the scale and complexity of the insolvency proceedings and if they are pre-approved by the creditors committee.

Section 40

(1) The insolvency administrator shall act in its own name on behalf of the debtor, if the privileges to handle the assets were passed to them. It shall be indicated in the manner in which it is clear that they do so during the performance of their duties as an insolvency administrator; part of its indication is also the unmistakable indication of the debtor whose assets are being managed.

(2) The conduct referred to in Subsection 1 are mainly legal acts by which the insolvency administrator liquidates the assets or they otherwise handle, and

their acts in incidental disputes, as well as in other disputes which they take part in on behalf of the debtor.

(3) The insolvency administrator may instruct its employees and the employees of the debtor to act on their behalf in court and other proceedings; this shall not affect their liability under this Act.

Credit Financing

Section 41

(1) The insolvency administrator may, in order to sustain the continued operation of the company, which is part of the assets, conclude credit agreements and similar agreements as well as an agreement for the energy supply[11)] and raw materials, including agreements to ensure compliance with these agreements (hereinafter referred to as "credit financing") under the common commercial terms.

(2) Unless they offer worse terms than the best offer, the existing secured creditors take priority so that the agreements under Subsection 1 are concluded with them; the same applies to creditors from the agreements on the energy supply and raw materials under Subsection 1.

Section 42

(1) The property acquired from the resources provided under the credit financing is not subject to seizure under the previously concluded agreements.

(2) Resources obtained from credit financing may only be used for the purpose stated in the agreements on credit financing.

(3) The agreements on credit financing may also be concluded by a debtor with handling authority or a debtor for the duration of the moratorium.

Section 43

(1) Public authorities, in particular the Land Registry Offices, vehicle registration authorities and other administrative bodies such as notary offices, bailiffs, financial securities register, financial institutions, telecommunication services operators, postal services operators and other persons who deal with consignment shipment, publishers and carriage services shall provide the insolvency administrator with cooperation in the manner further described upon their written request without undue delay.

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11) E.g. Act No. 458/2000 Coll., on Conditions on entrepreneurial activities and the performance of the public administration in the energy sector and on the amendment of certain laws (Energy Act), as amended.

(2) Cooperation under Subsection 1 is based on the fact that the authorities and persons referred to in it shall provide the insolvency administrator with data on the property of the debtor and any other information that is necessary for the performance of the administration, to the same extent as they would provide it directly to the debtor. Such cooperation also lies in the fact that those authorities and persons which have documents or other items that can be used to determine the debtor's assets in possession shall release them or lend them to the insolvency administrator upon the receipt of the request without undue delay. Cooperation is provided free of charge; unless they are public authorities, those who provided cooperation have the right to reimbursement of related cash expenses.

(3) The obligation of the authorities and persons referred to in Subsection 1 to provide the insolvency administrator with cooperation under other provisions of this Act or under the provisions of special legal regulations is not affected.

Section 44

(1) Cooperation under Section 43 is provided mainly as follows:

a) the persons managing the financial securities register shall notify the insolvency administrator of any registered securities which fall under the debtor's assets,
b) banks, savings and credit unions and branches of foreign banks shall inform the insolvency administrator of the numbers of the accounts of the debtors, inform them about the status of such accounts and their cash flow and provide them with information about the debtor's savings and deposit books,
c) postal services operators and other persons engaged in the shipment of consignments shall inform the insolvency administrator of the debtor's delivery locations, the extent and nature of the delivered items and the total funds that the debtor receives through them,
d) providers of electronic communications services shall notify the insolvency administrator of data about the debtor's telephone, telex, telefax or other electronic addresses and stations, which are not included in the available lists,
e) the insurance companies shall notify the insolvency administrator about the insurance policies and insurance claims of a debtor,
f) the publishers shall notify the insolvency administrator of the data about classifieds relating to the assets,
g) carriage services shall notify the insolvency administrator about the carriage of the debtor's items and their recipients.

(2) The insolvency administrator shall enclose their appointment into the position through a decision of an insolvency court upon the request of authorities and persons from whom cooperation is sought.

(3) The authorities and persons who are obligated to provide the insolvency court or the insolvency administrator with cooperation shall be liable for damage or other loss which they caused in the event that they failed to provide such cooperation in a proper and timely manner.

Section 45

The insolvency administrator shall maintain confidentiality about facts that the special legal regulation stipulates confidentiality for if they learned about them during the performance of their duties, and even after their completion; the confidentiality may be removed to the extent of the performance of such duty only by those whose interest it is in or by the insolvency court. The same shall apply to third parties performing activities, which the insolvency administrator is obligated to perform.

Division IV

Creditors Institutions

Section 46
Creditors Meeting, Creditors Committee and Creditors' Representative

(1) Creditors institutions are the creditors meeting and the creditors committee or the creditors' representative.

(2) The creditors meeting has the right to elect and remove members of the creditors committee and its substitutes or representatives; it also decides on whether to keep the provisional creditors committee in power. The creditors meeting may reserve anything that falls within the scope of the creditors institutions. If there has not been a creditors committee or a creditors' representative appointed, unless this Act stipulates otherwise, the creditors meeting shall perform all their capacity.

(3) The creditors committee shall perform the capacity of the creditors institutions with the exception of matters falling within the scope of the creditors meeting or which the creditors meeting reserved.

Section 47
Creditors meeting

(1) The creditors meeting is convened and governed by the insolvency court. It convenes it out of its own initiative or on the petition of an insolvency administrator, creditors committee or at least two creditors whose receivables calculated

based on the amount (Section 49 Subsection 1) come to at least one tenth of the filed receivables. The insolvency court shall convene the creditors meeting so that it shall be held within 30 days after the petition for it was filed, unless a later date of the meeting was petitioned.

(2) The right to attend the creditors meeting belongs to the registered creditors, debtors, insolvency administrator and the public prosecution if they participate in the insolvency proceedings. If the debtor has an employee, the trade union which operates at the debtor is also entitled to attend the creditors meeting. If there are several trade unions active at the debtor, the trade union with the largest number of members or an association of trade unions with the largest number of members has such right, unless the trade unions active at the debtor agree otherwise.

Section 48

(1) A notification of the creditors meeting shall be disclosed by the insolvency court through an ordinance (Section 71 Subsection 3), which must include the subject of the hearing as well as the place and date of the meeting. If it convenes the creditors meeting upon the petition of the person referred to in Section 47 Subsection 1, the insolvency court shall indicate the issue for which such petition was filed as the subject of the hearing.

(2) The creditors meeting may only heard the subject of the hearing, which was listed in the notification upon convening it. If all the creditors are present, other subject of the hearing may also be introduced; for this purpose, a creditor, who votes in writing shall not be considered present (Section 50 Subsection 2). The subject of the first creditors meeting is always the election of the creditors committee and the resolution of creditors under Section 29 Subsection 1 if the insolvency administrator was appointed and if such meeting takes place after the review meeting, the report of the insolvency administrator about their current activity, and if the provisional creditors committee was appointed, the report of such committee on its current activity.

(3) A creditor who repeatedly files a petition for convening the creditors meeting without a reason is, upon request, obligated to pay other creditors the costs they incurred in connection with their attendance at the creditors meeting which occurred upon their petition; the insolvency court may also impose such creditor to pay the costs that the court incurred through the convening and organisation of the creditors meeting held upon their petition.

Right to Vote

Section 49

(1) Unless this Act stipulates otherwise, the validity of the resolution of the creditors meeting requires the vote of a simple majority of present or duly represented creditors, calculated according to the amount of their receivables; at the same time, it shall apply that one vote equals 1 CZK of receivables.

(2) If the receivable belongs to several persons, they must agree who will exercise the rights associated with it. If they fail to agree, they shall exercise these rights only in regards to their share of the receivables; for these purposes it applies that the same share of the receivables shall belong to each of these persons. The provisions of the Code of Civil Procedure[12)] on Co-ownership shall apply accordingly.

Section 50

(1) Unless it is further stipulated otherwise, the right to vote belongs to all creditors present at the meeting. The vote, which is subject to a fulfilment of a condition, shall not be considered.

(2) The creditors may also vote in writing by a submission expressly designated as a “ballot paper”, which may not include any other procedural act, from which there is no doubt how they voted, and which includes an officially certified authenticity of their signature. Their vote shall be taken into consideration only if the submission containing all particulars was served to the insolvency court no later than on the day preceding the creditors meeting; Section 43 of the Code of Civil Procedure shall not apply.

(3) The particulars for a ballot paper under this provision shall be set out by the applicable legal regulation.

Section 51

(1) The creditors whose receivables were denied may, within the scope of the denial, vote only if the creditors meeting stipulates so. The insolvency court shall decide on the right to vote within the extent to which such resolution is not adopted.

(2) Subsection 1 shall apply to the receivables of the creditors bound to the deferral condition, accordingly.

(3) The denial of receivables by the registered creditor shall not have an effect on the right to vote of the creditors whose receivables were denied.

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12) Section 137 et seq. of the Civil Code.

(4) Unless they are the cases referred to in Subsection 1 and 2, the insolvency court shall decide on the right to vote of the creditors whose receivables have not yet been established or were disputed. It shall do so only upon the petition of the debtor, insolvency administrator or any of the creditors. The petition may be filed even prior to the date of the creditors meeting.

Section 52

(1) The insolvency court shall review the right to vote of all creditors individually.

(2) An appeal against the decision of the insolvency court on the right to vote of the creditors is not admissible. The insolvency court is not bound by such decision for the next creditors meeting.

Section 53

Unless it is in regards to the election of the creditors committee, none of the creditors may vote on its own behalf or on behalf of the person close to them or persons who form a group with the creditor.

Section 54
Procedure of the Insolvency Court

(1) If the resolution of the creditors meeting is in conflict with the common interest of the creditors, the insolvency court may revoke it; this shall not apply in the case referred to in Section 29 Subsection 1, Section 51 Subsection 1 and for the resolution of the creditors meeting on the method of the resolution of the insolvency of a debtor, restructuring plan or the method of the discharge.

(2) The insolvency court may only issue the decision on the revocation of the resolution of the creditors meeting before the completion of the creditors meeting that adopted the resolution, and may do so only upon the petition of the insolvency administrator or the creditors who voted against the adoption of the resolution of the creditors meeting.

Section 55

(1) After the declaration of the decision for the revocation of the resolution of the creditors meeting, the insolvency court shall call upon each of the creditors present, who voted for the adoption of the resolution of the creditors meeting, to indicate whether they waive the appeal; at the same time, it shall also instruct them that an appeal that is not submitted before the completion of the creditors meeting may no longer be filed. The comments of the creditors and their

instructions shall be recorded in the transcript of the hearing. The insolvency court shall serve its decision only to the persons who filed an appeal against it.

(2) If the insolvency court dismisses the petition for the revocation of the decision of the creditors meeting, it shall apply the procedure referred to in Subsection 1 appropriately in relation to the person who submitted the petition.

(3) The only person entitled to file an appeal against the decision on the revocation of a resolution of the creditors meeting is the creditor who voted for the adoption of such resolution. Only the person who filed the petition is entitled to file an appeal against the decision on the dismissal of the petition on revocation of the resolution of the creditors meeting.

Creditors Committee

Section 56

(1) If there are more than 50 registered creditors, the creditors meeting shall appoint a creditors committee. Members of a creditors committee and their substitutes shall be elected by the creditors meeting.

(2) The creditors committee has at least 3 and no more than 7 members. The number of members shall be decided by the creditors meeting. Each member of the creditors committee has their substitute; the creditors meeting may decide on the higher number of substitutes of the members of the creditors committee.

Section 57

(1) All groups of creditors shall be represented in the creditors committee according to the nature of their receivables. There must always be at least as many members of the creditors committee proposed by unsecured creditors as there are members proposed by secured creditors; this shall not apply if the unsecured creditors failed to propose their members or the persons proposed by them do not consent with their proposal or if they are not elected for other reasons.

(2) The members and substitutes of the creditors committee proposed by the unsecured creditors shall be elected by the votes of the unsecured creditors. The members and substitutes of the creditors committee proposed by the secured creditors shall be elected by the votes of the secured creditors.

(3) The insolvency court confirms the election of members and substitutes of the creditors committee; its decision is not served. Upon the resolution of the creditors meeting under Section 62 Subsection 2, the first sentence shall apply accordingly.

Section 58

(1) The creditors committee protects the common interest of creditors and it also contributes to the fulfilment of the purpose of the insolvency proceedings in cooperation with the insolvency administrator.

(2) The creditors committee in particular

a) supervises the activity of the insolvency administrator,

b) provides support to the insolvency administrator for their activities,

c) grants the insolvency administrator or the debtor with handling authority the consent for the conclusion of credit financing agreements,

d) continuously approves the amount and accuracy of the insolvency administrator's cash expenses and the costs associated with the maintenance and administration of the assets,

e) may inspect the debtor's accounts or records kept under special legal regulation[13)],

f) may decide on the audit of the proper final accounts or special final accounts by an auditor,

g) may inspect the debtor's documents to the same extent as the insolvency administrator,

h) fulfils the tasks set out in this Act or imposed on them by the insolvency court,

i) is authorised to file petitions relating to the conduct of the insolvency proceedings, including petitions for the imposition of procedural sanctions at the insolvency court.

(3) The creditors committee shall operate as a board; it elects a Chairman from among its midst, who convenes and chairs the meetings. If the creditors committee fails to elect the Chairman even during the re-election, the insolvency court shall select them from among the members of the creditors committee. The creditors committee meets out of its own initiative, or an insolvency court or insolvency administrator convenes it. It decides by a majority vote of its members, with the absent members being represented by their substitutes; if a member of the creditors committee has several substitutes (Section 56 Subsection 2), they represent them in the order determined by the creditors meeting during their selection. The vote of the Chairman has the casting vote. The creditors committee may form a quorum only if an absolute majority of its members or their substitutes is present. If the nature of any of the activities allows it, the creditors committee may authorise any of their members or substitutes with its performance.

13) Act No. 586/1992 Coll., on Income tax, as amended.

(4) The members and substitutes of the creditors committee may be represented in the creditors committee by any natural person who has the full legal capacity at their own risk; unless it is an attorney, such representative may act only in person. They pay for the costs incurred themselves.

Section 59

(1) The members and the substitutes of the creditors committee may only be registered creditors who consent to their election. If a legal entity becomes a member or a substitute of the creditors committee, it shall immediately declare the natural person who will act on its behalf in the creditors committee to the insolvency court.

(2) The members and substitutes of the creditors committee may not be persons for whom, given their relationship to the debtor, there is a reason to doubt their impartiality, especially persons close to the debtor, the leading employees of the debtor, according to Section 33 Subsection 3 and Section 73 Subsection 3 of the Labour Code, and partners of the debtor except for the shareholders, unless they are active in the bodies of the debtor or they owe the debtor's shares or other securities issued by them in the total value of more than one tenth of the capital stock of the debtor, and persons forming a group with the debtor.

(3) The insolvency court shall not confirm the election of a member or substitutes of the creditors committee if there is a reason to doubt their credibility, or whether they would be eligible for the performance of their duties. The insolvency court must declare such decision before the completion of the creditors meeting in which the election occurred.

(4) After the declaration of the decision under Subsection 3, the insolvency court shall call upon each of the creditors present, who voted for the election, to indicate whether they waive the appeal; at the same time, it shall also instruct them that an appeal that is not submitted before the completion of the creditors meeting may no longer be filed. The comments of the creditors and their instructions shall be recorded in the transcript of the hearing. The insolvency court shall serve its decision only to the persons who filed an appeal against it.

Section 60

(1) The members and substitutes of the creditors committee are obligated to proceed during the performance of their duties with due diligence and be liable for damage or other loss caused by the violation of their obligations or improper performance of their duties. They are obligated to give priority to the common interests of the creditors before both their own interests and the interests of other persons. They may acquire property from assets only with the consent of the

creditors meeting. They are also responsible for their employees and other persons, through whom they fulfilled or were to fulfil their obligations.

(2) The members and substitutes of the creditors committee are entitled to the reimbursement of the necessary expenses associated with the performance of their duties and adequate remuneration determined by the insolvency court.

(3) The creditors committee may utilise legal, economic and other specialist services during its activity. The costs incurred by members or substitutes of the creditors committee by it may be recovered from the assets only with the consent of the insolvency court. In granting the consent, the insolvency court examines the cost-effectiveness, their extent in comparison with the full range of the assets and the benefit to the assets. If the consent is granted, it is in regards to a receivable for the assets.

(4) The method of determining the necessary expenses and remuneration of the members and substitutes of the creditors committee and their highest permissible amount shall be set out by the applicable legal regulation.

Section 61

(1) Until the creditors committee is appointed and the election of its members and substitutes has been confirmed, the insolvency court may appoint a provisional creditors committee, even before the first creditors meeting and the decision on the bankruptcy; if the debtor files an insolvency petition, they shall do so immediately.

(2) The insolvency court shall always appoint a provisional creditors committee if the creditors committee was not appointed by the creditors meeting convened for that purpose. A new creditors meeting shall be convened for the purpose of the appointment of the creditors committee by the insolvency court only upon the petition of the entitled person (Section 47 Subsection 1).

(3) An appeal against the decision, by which the insolvency court appoints a provisional creditors committee, is not admissible. The decision is served separately to the debtor, the insolvency administrator or provisional administrator and the appointed members of the provisional creditors committee.

Section 62

(1) If possible, the insolvency court shall appoint a provisional creditors committee so that all groups of creditors, assessed according to the nature of their receivables, are represented in it. If the receivables of the debtor's employees form a significant part of the total receivables of the creditors of the debtor, the

insolvency court shall appoint their representatives into the provisional creditors committee.

(2) The first creditors meeting held after the appointment of the provisional creditors committee shall decide whether it will leave the provisional creditors committee in power. It may also remove any of the members from the creditors committee or its substitutes or elect another member or their substitute into it.

(3) The provisional creditors committee shall complete its activities as soon as the insolvency court confirms a new creditors committee appointed by the creditors meeting. From the moment when the insolvency court confirms the resolution, by which the creditors meeting shall retain the provisional creditors committee in office, such committee is considered as the creditors committee appointed by the creditors meeting.

Section 63

(1) The duties of a member or substitutes of the creditors committee shall terminate by their dismissal from office, resignation or termination of its participation in the insolvency proceedings.

(2) If the participation of a creditor in the insolvency proceedings terminates in accordance with the procedure under Section 18, their receivables and the membership of such creditor in the creditors committee shall pass to the acquirer; this shall not apply if several persons acquired the receivables of the existing creditors in such manner.

(3) An insolvency court may, for important reasons, especially due to the violation or neglect of obligations, dismiss the creditors committee or any of its members and substitutes. It may do so even without a petition; however, if the creditors meeting files such petition, the insolvency court shall grant it, provided the petition complies with the law.

Section 64

(1) Each of the dismissed persons may file an appeal against the decision on their dismissal; the decision is served to such persons separately.

(2) The person who filed a petition may file an appeal against the decision by which the petition for the removal from duties was dismissed; in the case of a petition filed by the creditors meeting, each of the creditors who voted for the adoption of the petition at the meeting may file an appeal. These persons shall be served the decision separately.

Section 65

(1) A member or substitute of the creditors committee may resign at any time. They do so by submission of their resignation, which does not have to contain the reasons, and addressing it to the insolvency court.

(2) If it happens that the creditors committee or any of its members or substitutes may not perform their duties due to the termination of their position, the insolvency court shall convene a creditors meeting in order to implement a new election or additional elections. If the position of a member of the creditors committee is terminated, their substitute shall take their place and a new election will determine a new substitute. In the case of the provisional creditors committee appointed by the insolvency court that has not yet been confirmed by the creditors meeting, then the new provisional creditors committee or any of its members or substitutes shall be appointed by the insolvency court.

Section 66
Insolvency Court as the Creditors Committee

(1) If during the course of the insolvency proceedings, the number of members of the creditors committee appointed by the creditors meeting decreases to less than 3, the insolvency court shall exercise the powers of the creditors committee until the confirmation of a new election or an additional election of the members of the creditors committee to at least 3 members and under the terms referred to in Subsection 2 until the appointment of a provisional creditors committee.

(2) If the creditors meeting convened to elect the missing members of the creditors committee to a total of at least 3 members failed to do so, the insolvency court shall appoint the missing members of the creditors committee and their substitutes to a total number set out by the creditors meeting. From the moment they do so, this committee is considered as a provisional creditors committee; Section 61 Subsection 2, second sentence and Subsection 3 and Section 62 shall apply accordingly.

Section 67
Participation of Unions in the Creditors Committee

If the debtor has an employee, a trade union active at the debtor has the right to attend the meetings of the creditors committee or provisional creditors committee in an advisory capacity. If there are several trade unions active at the debtor, the trade union with the largest number of members or an association of trade unions with the largest number of members has such right unless the trade unions active at the debtor agree otherwise.

Section 68
Representative of Creditors

(1) If the election of the creditors committee is not obligatory, the creditors meeting may instead elect a representative of the creditors and their substitute.

(2) The provisions on the creditors committee shall apply for a representative of the creditors and their substitute accordingly. However, a representative of the creditors and their substitute cannot be appointed by the insolvency court and the provisions of Section 63 Subsection 2 shall not apply to them.

Division V

Other Procedural Bodies

Section 69
Public Prosecution

The public prosecutor who entered into the insolvency proceedings or into an incidental dispute may file an appeal against the decision of the insolvency court only if all participants in the proceedings have such right.

Section 70
Liquidator of the Debtor

(1) The liquidator of the debtor performs their activities in the insolvency proceedings to the extent to which they did not pass on the insolvency administrator; cooperation with an insolvency administrator imposed on the debtor by law also falls within their competency.

(2) The competency under Subsection 1 shall be exercised by the liquidator of the debtor from the filing of an insolvency petition and in the case of the insolvency petition of a creditor, from the decision on the bankruptcy.

(3) In connection with their activities in the insolvency proceedings, the liquidator of the debtor is entitled to the reimbursement of necessary expenses and to reasonable remuneration, the amount of which shall be determined by the insolvency court upon the petition of the insolvency administrator and in compliance with special legal regulations.

(4) Subsection 1 through 3 shall apply to persons with a position equivalent to the position of the liquidator of the debtor accordingly.

Chapter III

Provisions on Insolvency Proceedings

Serving

Section 71

(1) The court decision, summons, notification or other instruments of the insolvency court or the participants in the insolvency proceedings shall only be served by the posting of the instruments on the official board of the insolvency court and its simultaneous publication in the Insolvency Register (hereinafter referred to as “serving by an ordinance”) unless the law also stipulates a specific method of serving for certain cases or for specific persons.

(2) Upon the serving by an ordinance, the instrument is considered served on the day or the moment of its publication in the Insolvency Register; the moment of publication of the instrument in the Insolvency Register means the day, hour and minute of the publication.

(3) The obligation of the insolvency court to publish the various information stipulated in this Act by an ordinance is met by posting the relevant instruments on the official board of the insolvency court with the simultaneous publication in the Insolvency Register, unless the law stipulates that the instruments may only be published on the official board of the insolvency court; Subsection 2 shall apply to the publication of instruments in the Insolvency Register accordingly.

Section 72

(1) In addition to the serving by an ordinance or the publication by an ordinance, the insolvency court may publish the instruments or information also through mass media or networks or electronic communications services, provided it is practical given the number of participants and the nature of the matter; such publication must not include the justification.

(2) Instead of the full text of the court decision issued in the insolvency proceedings the appropriately abbreviated version of the decision may be published on the official board of the insolvency court. The abbreviated version of the decision usually does not include the justification.

(3) A summons of the participants in the insolvency court made by an ordinance must be published at least 15 days prior to the date when the hearing or another act of the insolvency court are to be held.

Section 73

(1) If it is stipulated that the instrument is to be posted on the official board of the insolvency court, it shall be posted on the official board of the insolvency court and the date of posting shall be indicated on it. After the expiry of the deadline during which the instrument is to be posted, it shall be removed from the official board, the date of its removal shall be indicated on it and it shall be submitted for archiving in the appropriate file.

(2) If the date or the moment of the publication of the instrument in the Insolvency Register is decisive for the publication or serving of the instrument, it shall be indicated on the instrument during its posting. Once the insolvency court is aware of the information about when the instrument was published in the Insolvency Register, the posted instrument shall be provided with such information, together with the indication of the date when the information was marked on the instrument; the instrument may not be removed from the official board before the lapse of 10 days after the indication of the mentioned information.

Section 74

(1) Disclosure of instruments in the Insolvency Register is proof of serving also during the special method of the serving of the instrument.

(2) If the beginning of the deadline for the submission of an appeal or another procedural act is connected with the serving of the instrument for which the law stipulates a special method of serving, the deadline shall begin to run from the date when the instrument was served to the addressee in a special manner. The addressee must be instructed on this.

Section 75

(1) The special method of serving occurs when the law stipulates that the instrument must be served separately or into the own hands of the addressee.

(2) Unless this Act stipulates otherwise, the instrument shall be served separately to the debtor, insolvency administrator and the creditors committee in the insolvency proceedings. The court decisions shall be served separately also to the persons whose submission the insolvency court decides on as well as the persons who are to perform something in the insolvency proceedings in person and to the public prosecution that entered the insolvency proceedings. The instruments, in regards to which the special legal regulation[16] stipulates so, shall also be separately served to the body which manages the Commercial Register or another register in which the debtor is registered.

[16] E.g. Section 38i Subsection 1 Paragraph h) of the Commercial Code, as amended.

(3) In addition to the serving by an ordinance, in some cases, the instruments, which the presiding judge decides on, may also be served separately. Such procedure of the insolvency court, however, may not be in conflict with the principle of equality of the participants in the insolvency proceedings.

Section 76

(1) If the insolvency administrator serves the instruments relating to the insolvency proceedings in person, they have the legal status of the process server

(2) The insolvency administrator shall serve the instrument through the postal service if a proof of the serving of the instrument such as a consignment with the delivery note or a postal consignment designated for the serving into own hands of the addressee is necessary for the insolvency proceedings.

(3) If the insolvency administrator fails to serve the instrument through the network or electronic communications services, in person or by postal services, it may request the insolvency court for the serving.

Section 77

(1) An instrument designated for the insolvency administrator shall be served by the insolvency court to the data box of the insolvency administrator[16a)]. If an instrument may not be served in this manner, the insolvency court shall transfer the instrument to the serving authority for serving to the address of its registered office entered in the list of insolvency administrators. If the insolvency administrator requests it, the insolvency court shall forward the instrument for serving to another address in the Czech Republic, which they notified the insolvency court of. It may be served to another address or email address only if it is not possible to serve into the data box.

(2) The instrument designated for the insolvency administrators, including instruments delivered into own hands, may also be accepted by their staff as well as other natural persons who were authorised by the insolvency administrator.

Section 78

(1) If the insolvency administrator is a natural person to whom, given their position, the instruments are being served differently than to other natural persons under the Code of Civil Procedure and it is not possible to serve the instruments into the data box of the insolvency administrator[16a)], the insolvency court

[16a)] Act No. 300/2008 Coll., on Electronic acts and authorised document conversion.

shall transfer the instrument designated for the insolvency administrators to the serving authority for serving in this method; Section 77 shall not apply.

(2) Unless it is the case referred to in Subsection 1, the insolvency court shall enclose an "insolvency administrator" appendix to the designation of the insolvency administrator to the instrument which it transferred to the serving authority for serving.

Section 79

(1) An instrument designated for the creditors committee shall be served by the insolvency court to the data box of its Chairman[16a)]. Unless it is possible to serve the instrument in this method, it shall transfer the instrument to the serving authority for serving to the designated address for serving to its Chairman.

(2) If the creditors committee requests it, the insolvency court shall forward the instrument for serving to another address in the Czech Republic which the creditors committee notified the insolvency court of. It may be served to another address or email address only if it is not possible to serve into the data box.

(3) Section 78 Subsection 1 shall apply to the serving to the creditors committee accordingly.

Section 80

(1) If the person to whom the instrument is served separately was not served the instrument to the address specified in the submission, which they made in the insolvency proceedings, such as the address of their domicile, or a registered office or an address in the Czech Republic to which the instrument is to be served, the insolvency court shall serve it again by an ordinance; in such a case, Section 74 Subsection 2 shall not apply. If the instrument does not contain the indication of the addressee, the insolvency court shall provide it with such information before the serving by an ordinance.

(2) If the person to whom the instrument is served separately made several submissions in the insolvency proceedings, the instrument shall be served under Subsection 1 to the address of their domicile or their registered office or an address in the Czech Republic, to which the instrument is to be served, which they introduced to the insolvency court during the last submission.

(3) The person to whom the decision of the insolvency court was served by an ordinance or which only the abbreviated version of such decision was served has the right to the preparation of a copy of the decision free of charge. The insolvency court does so at their request.

[16a)] Act No. 300/2008 Coll., on Electronic acts and authorised document conversion.

Section 81
Disciplinary Fine

(1) The insolvency court may also impose a disciplinary fine[17)] upon the members or substitutes of the creditors committee, who, without a proper apology, do not participate in its meetings or who otherwise fail to fulfil their obligations.

(2) The insolvency court may impose a disciplinary fine, even repeatedly, but of no more than the total amount of 200,000 CZK if an insolvency administrator does not fulfil the obligations imposed upon them by the court or otherwise fails to fulfil their obligations.

Section 82

(1) The insolvency court may order the preliminary measures in the insolvency proceedings even without a petition, unless the law stipulates otherwise. The petitioner of the preliminary measures, which the insolvency court could order even without a petition, is not required to lodge a guarantee.

(2) The insolvency court may also appoint a provisional administrator through a preliminary measure.

(3) Unless it is contrary to the common interest of the creditors, the insolvency court may, for reasons worthy of special consideration, through a preliminary measure also

a) grant consent for the inclusion of the mutual receivables of the debtor and the creditor during the period of moratorium, or
b) grant consent for the inclusion of the mutual receivables of the debtor and the creditor even after the publication of the petition for the restructuring permit in the Insolvency Register, or
c) prohibit the inclusion of the mutual receivables of the debtor and the creditor for certain cases or for a set period of time.

(4) Preliminary measures under Subsection 3 may be ordered only upon the petition of the debtor, insolvency administrator, creditor which the inclusion concerns, or a person who has a legal interest in it.

(5) The preliminary measures under Subsection 3 shall be served by the insolvency court into own hands of the debtor, the insolvency administrator, the person who filed such a petition and, if the preliminary measure applies to the receivables of individual creditors, even to those creditors. If the insolvency court fails to order a preliminary measure, it shall serve the decision on the petition for

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17) Section 53 of the Code of Civil Procedure.

the preliminary measure under Subsection 3 separately to the debtor, the insolvency administrator and the person who filed such a petition.

(6) If the debtor is an operator or participant in a payment system with a settlement finality, a foreign payment system with a settlement finality, a settlement system with a settlement finality or a foreign settlement system with a settlement finality, the insolvency court shall notify the Czech National Bank of the issue of preliminary measures under Subsection 3 simultaneously with its publication in the Insolvency Register.

Section 83

Remission of the deadline default in the insolvency proceedings is not admissible; the same shall apply in the case of a missed court hearing, including a missed creditors meeting or a review meeting.

Section 84

(1) Interruption of the insolvency proceedings is not admissible; a decision on the bankruptcy of a debtor who is an entrepreneur may not be issued in the period during which the Czech National Bank suspended trading in all investment instruments on the regulated market under a special legal regulation[18)].

(2) If it is a case under Subsection 1 and the registered creditor petitions it, the insolvency court shall appoint a provisional administrator for the debtor. Unless it is an insolvency petitioner, the insolvency court may impose such a creditor to pay the deposit for the cost of a provisional administrator within the set deadline; Section 108 shall apply accordingly.

Section 85
Hearing

(1) The insolvency court orders a hearing in the insolvency proceedings only if it is stipulated by law, or if it is deemed necessary.

(2) The petitions that may be submitted under this Act and the procedural acts that are to be performed at the hearing, in another court action or at the creditors meeting, may not be subsequently performed by persons who did not appear despite being duly subpoenaed.

[18)] Section 55 Subsection 2 Act No. 256/2004 Coll., on Entrepreneurial activities in capital markets, as amended 230/2008 Coll. and Act No. 188/2001 Coll.