

Insolvency and Financial Rehabilitation Law 5778-2018

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Insolvency and Financial Rehabilitation Law 5778-2018*

* Published Sefer Ha-Chukkim 5778 no. 2708 dated 15.3.2018 p. 310 (Government Bill 5776 no. 1027, p. 604).

Amended Sefer Ha-Chukkim 5779 no. 2778 dated 9.1.2019 p. 226 (Government Bill 5778 no. 1246, p. 1154) – Amendment no. 1 in section 76 of the Payment Services Law 5779-2019; commencement on 14.10.2020.
Amended Sefer Ha-Chukkim 5780 no. 2790 dated 18.2.2020 p. 14 (Government Bill 5780 no. 1291 p. 2) – Amendment no. 1 (Amendment) 5780-2020 in the Payment Services Law (Amendment) 5780-2020; commencement on 9.1.2020.

Part A: Principles and interpretation

Chapter A: Basic principles

- Purpose of the Law 1. This Law is intended to regulate the payment of the debts of a debtor that is a natural person or a corporation, and is or might be in a state of insolvency, in order to –
- (1) bring about the financial rehabilitation of the debtor, to the extent possible;
 - (2) increase the rates of the debt that will be paid to the creditors;
 - (3) promote the reintegration of a debtor who is a natural person into economic life.
- Insolvency 2. Insolvency is a financial state in which a debtor is unable to pay the debtor's debts when they become due, whether or not the date of their payment has arrived, or a state in which the liabilities of the debtor, including prospective and contingent liabilities, exceed the value of his assets.
- Declaration that a debtor is insolvent 3. (a) When an order has been issued declaring that a debtor is insolvent and that insolvency proceedings in respect of the debtor will commence under this Law (in this Law – an order to commence proceedings), the relationship of the debtor with the debtor's creditors will be regulated, collectively, in accordance with the provisions of this Law, until completion of the insolvency proceedings.
- (b) Commencement of insolvency proceedings in respect of a debtor who is insolvent shall be initiated by the debtor, the creditor or the Attorney General.

Chapter B: Definitions

- Definitions 4. In this Law –
- “Organs” of a corporation – organs of a company as meant by this term in the Companies Law, and any entity performing an equivalent function in a partnership;
- “Court” –

Sefer Ha-Chukkim 5779 no. 2786 dated 24.7.2019 p. 342 (Government Bill 5779 no. 1289, p. 274) – Amendment no. 2; see section 2 regarding temporary provision.

Official Gazette 5780 no. 8664 dated 29.1.2020 p. 3422 – Notice 5780 – 2020; commencement on 1.1.2020.

Sefer Ha-Chukkim 5780 no. 2813 dated 30.6.2020 p. 154 (Government Bill 5780 no. 1327 p. 316) – Amendment no. 3.

Official Gazette 5781 no. 9405 dated 2.2.2021 p. 3406 – Notice 5781-2021; commencement on 1.1.2021.

Sefer Ha-Chukkim 5781 no. 2904 dated 4.3.2021 p. 318 (Government Bill 5781 no. 1391 p. 228) – Amendment no. 4 – temporary provision; in effect as of 18.3.2021 until 17.3.2022.

(1) With regard to proceedings under this Law in respect of a debtor that is a corporation – the District Court within whose jurisdiction the corporation is registered, or its principal place of business or assets are situated;

(2) With regard to proceedings under this Law in respect of a debtor who is a natural person – the Magistrate Court, as meant by this term in section 353, located in the district in which the natural person resides or the natural person’s principal place of business or assets are situated, and in the absence of such district– the Magistrate Court in Jerusalem;

“Adequate protection” –

(1) With respect to an asset that is subject to a fixed charge, an asset that is subject to a floating charge or an asset that is subject to a lien – preservation of the value secured for the creditor in a security, taking into consideration, *inter alia*, the level of certainty that the debt will be paid from the asset; for this purpose, “value secured for the creditor in a security” – the amount that the creditor would have received from the realization of the asset if the Court had permitted him, on the filing date of the application in which the adequate protection claim was considered, to realize the asset by himself, and not within the framework of the operation of the corporation under Chapter G: Operation of the corporation and its financial rehabilitation, of Part B, and with respect to a debtor who is a natural person – not within the framework of the operation of his business under section 157;

(2) With respect to an asset that is subject to retention of title – ensuring the payment of the consideration for the asset, however not exceeding the amount that would have been received for the asset if the asset had been sold by its owners on the filing date of the application in which the adequate protection claim was considered;

“Insolvency proceedings expenses” – within the meaning of this term in section 233;

“Administrative decision” – a decision of an administrative authority taken when carrying out its public functions in accordance with the law, including no decision, an action or omission;

“Collection proceeding” – a proceeding under the Execution Law, the Center for Collection of Fines, Fees, and Expenses Law, 5755-1995, the Tax Ordinance (Collection) or any other law conferring collection authorities that are equivalent to the authorities conferred in these proceedings;

“Administrative proceeding” – a proceeding conducted by an administrative authority, when carrying out its public functions in accordance with the law, and a proceeding of judicial review of an administrative decision;

“Insolvency proceedings” – proceedings under this Law as of the date of the filing of an application to commence proceedings and until the date stated hereunder, and in the event the order was revoked earlier – until the order is revoked:

- (1) With respect to a debtor that is a corporation – the date of the approval of the financial rehabilitation plan or the date of its dissolution;
- (2) With respect to a debtor who is a natural person – the date of discharge;

“Debt arrangement” – as defined in Part J: a debt arrangement not within the framework an order to commence proceedings;

“Discharge” – with respect to a debtor who is a natural person – as defined in Chapter I: Discharge, in Part C;

“Linkage differentials and interest” – linkage differentials and interest that have accrued in accordance with a law or an agreement, including interest on arrears;

“Stay of proceedings” –

- (1) With respect to a debtor that is a corporation – as meant in Chapter E: Stay of proceedings, in Part B;
- (2) With respect to a debtor who is a natural person – as meant in section 121(3);

“The Constitution Committee” – the Knesset Constitution Committee;

“Member of the corporation” –

- (1) In a company – a shareholder;
- (2) In a partnership – a partner;

“Company” – a company and a foreign company, as defined in the Companies Law;

“Insolvency” – as meant in section 2;

“Debt” – a debt that is fixed or contingent debt, liquidated or unliquidated, whether or not its payment date has arrived;

“Priority debt” – as meant in section 234;

“Deferred debt” – as meant in section 237;

“General debt” – as meant in section 235;

“Secured debt” – a past debt that for the purpose of securing its payment, an asset of the debtor became subject to a charge, whether a floating or a fixed charge, to the extent that the debt can be paid from the realization of the asset;

“Past debt” – a debt, including a punitive payment, in respect of which one of the following applies:

(1) The debtor owes this debt on the date of issuance of the order to commence proceedings, including contingently;

(2) It derives from an act or omission by the debtor which occurred prior to the issuance of the order to commence proceedings, even if the debt arose after the issuance of the order;

(3) It derives from breach of an obligation that the debtor incurred prior to the issuance of the order to commence proceedings, even if the breach was committed after the issuance of the order, and provided that the breach derives from the insolvency proceedings;

(4) A debt owed to the National Insurance Institute stemming from the payment of benefits under chapter H of the National Insurance Law;

(5) Linkage differentials and interest that were added to a debt stated in paragraphs (1) to (4), until its actual payment date;

“Debts not subject to discharge” – as meant in section 175;

“The National Insurance Law” – the National Insurance Law [Consolidated Version] 5755-1995;

“The Execution Law” – the Execution Law 5727-1967;

“The Companies Law” – the Companies Law 5759-1999;

“The Pledge Law” – the Pledge Law 5727-1967;

“The Penal Law” – the Penal Law 5737-1977;

“The Securities Law” – the Securities Law 5728-1968;

“The Adjudication of Interest and Linkage Law” – the Adjudication of Interest and Linkage Law, 5721-1961;

“Debtor” – a natural person or a corporation owing a debt;

“The Superintendent” – the Superintendent of Insolvency and Financial Rehabilitation Proceedings appointed under section 266;

“The Register” –

(1) With respect to companies – the Companies Register that is kept in accordance with the Companies Law;

(2) With respect to partnerships – the register kept in accordance with the Partnerships Ordinance;

“Trustee” – whoever was appointed under section 33 or 125;

“Office holder” – as defined in the Companies Law, and with respect to a partnership – anyone performing an equivalent function in a partnership and a general partner;

“Creditor” – whoever the debtor owes a debt to;

“Secured creditor” – as meant in section 243 or 253;

“Asset” – Movable property, land or rights;

“Asset subject to retention of title” – as meant in section 251;

“Assets of the insolvency estate” – as meant in Chapter B: Insolvency estate, in Part D;

“Order of payment” – as meant in section 231;

“The Companies Ordinance” – the Companies Ordinance [New Version] 5743-1983;

“The Bankruptcy Ordinance” – the Bankruptcy Ordinance [New Version] 5740-1980;

“The Partnerships Ordinance” – the Partnerships Ordinance [New Version] 5735-1975;

“Order to commence proceedings” – as meant in section 3;

“Financial rehabilitation order,” with respect to a debtor who is a natural person – an order containing a plan for the payment of the debts and the financial rehabilitation of the natural person in respect of whom an order to commence proceedings was issued, as meant in Chapter H; Financial rehabilitation order, in Part C;

“Relative” –

(1) With respect to a natural person – a spouse, parent, parent of a parent, the grandfather or the grandmother of a parent, son or daughter, siblings and their children, brother-in-law, sister-in-law, uncle or aunt, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandchild or granddaughter, great-grandson or great-granddaughter, or the spouse of any thereof, and any person who is a dependent of the natural person;

(2) With respect to a corporation – any of the following:

(a) A body of persons controlled by it, anyone exercising control over it, or a body of persons controlled by anyone exercising control over it;

(b) An office holder of the corporation or his relative;

(c) With regard to a public company as defined in the Companies Law – a material shareholder, as defined in the said law;

(d) With regard to a public limited partnership – a general partner and a limited partner holding five percent or more of the participation units; for this purpose, “public limited partnership,” “general partner,” “limited partner” and “participation unit” – as defined in sections 1 and 65A of the Partnerships Ordinance;

(e) With respect to any corporation that is not mentioned in sub-paragraphs (c) and (d) – a member of the corporation;

“Administrative authority” – any of the State authorities, a municipality, and other entities and persons carrying out public functions in accordance with the law;

The “Registrar” – the Registrar of Companies as meant in the Companies Law or the Registrar of Partnerships as meant in the Partnerships Ordinance, as the case may be;

“Partnership” – as defined in the Partnerships Ordinance;

“Control” – as defined in the Securities Law;

“Floating charge” – as defined in the Companies Ordinance;

“Fixed charge” – a charge other than a floating charge;

“Financial rehabilitation,” of a corporation – preserving the business of the corporation as a going concern;

“Corporation” –

(1) A company, except a public benefit company as defined in section 345A of the Companies Law;

(2) A partnership;

“Banking corporation” – as defined in the Banking (Licensing) Law 5741-1981;

“Financial rehabilitation plan,” with respect to a debtor that is a corporation – a plan for the financial rehabilitation of a corporation in respect of which an order to commence proceedings was issued, as defined in Article C: Financial rehabilitation plan, in Chapter G of Part B;

“Punitive payment” – a fine, monetary sanction and any other payment imposed as a sanction on the debtor by a judicial or administrative authority as a result of breach of an enactment, and with the exception of interest on arrears or a penalty for delay that have accrued on a payment other than a punitive payment;

“The Minister” – the Minister of Justice;

Part B: Insolvency proceedings in respect of a corporation

Chapter A: Applicability

- Application of the Law with respect to a corporation
5. (a) The provisions of this part will apply to insolvency proceedings in respect of a debtor that is a corporation (in this part – the corporation).
(b) No insolvency proceedings shall commence under this chapter in respect of a corporation unless one of the following holds true with respect to the corporation on the filing date of the order to commence proceedings:
- (1) It is registered as a corporation in Israel;
 - (2) It conducts its business in Israel;
 - (3) It holds properties in Israel.

Chapter B: Application to commence proceedings and the hearing thereof

- Those who may file an application to commence proceedings
6. The following may file an application to commence proceedings in respect of a corporation:
- (1) The corporation;
 - (2) A creditor;
 - (3) The Attorney General;
- Application by a corporation to commence proceedings
7. (a) The corporation may file an application to commence proceedings if all of the following hold true:
- (1) It is insolvent, or the order will help in preventing it from becoming insolvent;
 - (2) The total amount of its debts exceeds NIS 24,926.5.
- Notice 5781-2021
- (b) The application of a corporation that is a partnership may be filed also by a general partner in the partnership.

- Application by a corporation for its operation within the framework of an order to commence proceedings
8. (a) A Corporation may, when filing an application to commence proceedings, request from the Court to order its operation for the purpose of its financial rehabilitation;
- (b) In an application filed pursuant to sub-section (a), the corporation will present an initial outline for its financial rehabilitation and will describe the means for the purpose of financing the expenses in connection with its operation.
- (c) The Minister may prescribe additional information that will be included in the application.
- Application by a creditor to commence proceedings
9. (a) The creditor of a corporation may file an application to commence proceedings if the corporation is insolvent; the proof of insolvency of the corporation may be provided by way of one of the presumptions as stated in section 10.
- (b) Within the framework of an application to commence proceedings, a creditor may indicate his preference regarding the winding-up of the corporation or its financial rehabilitation, and attach his proposal for the purpose of this matter.
- (c) The creditor of a debt whose payment date has not arrived yet, may not file an application to commence proceedings however only if one of the following holds true:
- (1) The corporation acts for the purpose of deceiving its creditors;
- (2) The corporation acts for the purpose of removing any of the assets of the corporation for the purpose of concealing it from its creditors;
- (3) The corporation cannot pay the debt, provided that the debt payment date is in six months as of the filing date of the application.
- Presumption of insolvency in an application by a creditor
Notice 5781-2021
10. (a) With regard to an application to commence proceedings that the creditor files, it shall be presumed that the corporation is insolvent if one of the following holds true (in this section – the insolvency presumption):
- (1) The creditor delivered to the corporation a demand to pay a debt whose amount exceeds NIS 74,779.8, and in which the creditor stated that if the debt is not paid on the date stated in the demand, the creditor will file an application to commence proceedings, and the debt was not paid in 30 days as of the delivery date of the demand, provided that all of the following hold true:
- (a) There is no good faith dispute regarding the debt and the corporation has no right of setoff or other grounds that can justify avoidance from payment of the debt;

(b) The creditor filed the application to commence proceedings in three months as of the date the creditor delivered to the Corporation the demand for payment;

(2) A receiver was appointed for the entire or the majority of the assets of the corporation;

(3) The creditor served to the corporation a notification, pursuant to section 7 of the Execution Law, or a demand for payment pursuant to section 4 of the Tax Ordinance (Collection) for the payment of a debt exceeding an amount of NIS 74,779.8 and the debt was not paid within the period prescribed in the notification or the demand;

(4) The Court gave a judgment ordering the corporation to pay to the creditor who filed the application an amount exceeding NIS 74,779.8 and the judgment was not performed, in whole or in part, in 30 days as of the date the judgment was served to the Corporation or from any other date set out in the judgment, whichever is later, provided that if the judgment was partly performed – the outstanding amount exceeds NIS 74,779.8;

(5) The Labor Court issued a judgment ordering the corporation to pay to the creditor who filed the application an amount exceeding NIS 9,970.64 and the judgment was not performed, in whole or in part, in 30 days as of the date it was served to the Corporation or any other date as stated in the judgment, whichever is later, provided that if the judgment was performed in part – the outstanding amount exceeds NIS 9,970.64.

(b) In an application to commence proceedings that is based on the Presumption of Insolvency, the creditor will state whether he commenced collection proceedings, and which proceedings he commenced, and will explain why the collection proceedings are insufficient for the purpose of collecting the debt.

(c) The Presumption of Insolvency may be rebutted by the Corporation if the Corporation proved that the payment of the debt does not stem from its insolvency.

(d) (1) In the calculation of an amount of a debt exceeding NIS 74,779, with regard to the fulfillment of any of the conditions set out in

paragraphs (1), (3) and (4) in sub-section (a), it is possible to take into consideration a number of debts stemming from one or more of the said paragraphs, whether of the same creditor and whether of a number of creditors;

(2) In the calculation of an amount of a debt exceeding NIS 9,970.64, with regard to the fulfillment of the condition set out in paragraph (5) in sub-section (a), it is possible to take into consideration a number of debts, whether of the same creditor and whether by a number of creditors;

Application by the Attorney General to commence proceedings

11. The Attorney General may file an application to commence proceedings if he found that there is public interest in such action; the provisions of this part that apply to an application to commence proceedings that a creditor filed shall apply to such an application as said.

Attaching documents to an application to commence proceedings

12. Whoever seeks an order to commence proceedings will attach to his application an affidavit confirming the facts supporting his application; the Minister may give instructions regarding other documents that the applicant is required to attach to his application for the purpose of satisfying the conditions for its filing.

Publication of notice regarding the filing of an application to commence proceedings and delivery of a copy thereof

13. (a) A notice regarding the filing of an application to commence proceedings will be published in the form and on the date prescribed by the Minister;

(b) The person filing the application to commence proceedings will provide a copy thereof to the Superintendent immediately after its filing, and if the applicant is a creditor – also to the corporation.

(c) Any person may inspect and copy the application to commence proceedings; the Superintendent will lay down instructions regarding the right of inspection under this sub-section.

Filing an objection to an application to commence proceedings

14. (a) A person who might be aggrieved as a result of the issue of an order to commence proceedings may file in Court an objection to the application to commence proceedings.

(b) The Minister will lay down instructions regarding the filing of an objection to the order to commence proceedings, including with respect to the particulars included therein, its filing date and the manner of its service.

Imposing costs due to filing of an application to commence proceedings in bad faith

15. If the Court was convinced that an application to commence proceedings was filed in bad faith, it may order the applicant, when imposing costs, to pay the trial costs or double of the trial costs, expenses in favor of the treasury of the State or both.

Hearing of an application to commence proceedings 16. A hearing of an application to commence proceedings and the objections filed against such an application will be held at the earliest opportunity, and the Court will give its decision in the application at the earliest opportunity after the hearing.

Amendment of an application of a corporation to commence proceedings and withdrawal thereof 17. If the corporation requested, in an application to commence proceedings, to order its operation, as stated in section 8, and the Court is of the opinion that the initial outline for the financial rehabilitation of the corporation that was submitted does not constitute sufficient financial grounds justifying the issue of an order to commence proceedings ordering the operation of the corporation, the Court will permit to the corporation to amend the initial outline it submitted or withdraw from its application for the order to commence proceedings, within the period as ordered by the Court.

Decision on an application to commence proceedings 18. (a) If the Court finds that the conditions set out in section 7 or 9 hold true, the Court will issue an order to commence proceedings.

(b) Notwithstanding the provisions of sub-section (a), the Court may dismiss the application to commence proceedings if it found that the issuance of the order, in and of itself, will have an adverse effect on the ability of the corporation to rehabilitate financially; for the purpose of this matter the Court will examine, *inter alia*, whether the dismissal of the application might harm creditors and the overall financial capacity of the Corporation.

Chapter C: Interim restrictions and relief until the issuance of an order to commence proceedings

Engaging in extraordinary transactions from the date the application to commence proceedings was filed by a corporation 19. A corporation that filed an application to commence proceedings will not perform an extraordinary transaction, as meant by this term in the Companies Law, until a decision in the application is made, however only with the approval of the Court.

Interim relief 20. (a) If an application to commence proceedings was filed in Court, the Court may, on application of the corporation or the creditor, issue an interim order, ordering one or more of the following (in this chapter – interim relief), if it was convinced that there is prima facie proof indicating that the conditions for the issuance of an order to commence proceedings as stated in section 18 hold true:

(1) A prohibition on performing specific transactions, a specific type of transactions or distribution, as meant by this term in the Companies Law,

or the stipulation on the performance of such actions on approval from the Court;

(2) The appointment of a temporary trustee for the purpose of ensuring the proper operation and management of the Corporation and protecting its assets; the provisions of Article A: Appointment of a trustee in Chapter F will apply to the appointment of a temporary trustee; the Court shall prescribe the functions and authorities of the temporary trustee;

(3) A prohibition to pay the past debts of the Corporation and stay of proceedings against the Corporation; if an Interim Relief was granted as said –

(a) The Court will appoint a temporary trustee, pursuant to paragraph (2);

(b) The Court may apply the provisions of Article B: Operation of the Corporation, in Chapter C;

(c) The date the interim relief was granted shall be deemed, with respect to the insolvency proceedings of the Corporation, as the issuance date of the order to commence proceedings with respect to that Corporation.

(b) In its decision whether to grant an interim relief, and in determining the type of the relief, its scope and conditions, including the nature of the security that the applicant will provide, the Court will examine the following considerations, *inter alia*

–

(1) The damage caused to the applicant and to the other interested parties in the proceeding if the interim relief is not granted, compared to the damage caused to the respondent and to the other interested parties in the proceeding, if the interim relief is granted;

(2) If the application was filed in good faith, and if the granting of the relief is just and proper under the circumstances of the case, and does not cause excessive harm.

(c) An interim relief will be granted for a period that will not exceed 30 days; the Court may, after hearing the parties to the proceeding, extend the said period by one additional period that will not exceed 30 days.

(d) The provisions of this section shall be without prejudice to the authority of the Court to grant another interim relief pursuant to the provisions of the Civil Procedure Regulations 5744-1984.

Interim relief ex parte

21. (a) An application for an interim relief will be heard in the presence of the parties, however the Court, if it was convinced, based on prima facie reliable evidence, that there is concern that a delay of the hearing until the hearing is held in the presence of the parties will frustrate the granting of the relief or will cause serious damage to the applicant, may grant the following ex parte –

(1) At the request of a corporation – an interim relief, as stated in section 20(a)(1) to (3);

(2) At the request of a creditor – an interim relief imposing a prohibition on the performance of a specific transaction, a prohibition on distribution, a prohibition on the performance of any extraordinary transaction, as meant by this term in the Companies Law, or conditioning the performance of these actions on obtaining approval from the Court.

(b) A notice regarding the issue of the interim relief ex parte will be published and will be delivered to any person who might be aggrieved by such interim relief, in the manner and on the date prescribed by the Minister;

(c) If an Interim Relief was granted ex parte, the Court will hold a hearing in the presence of the parties at the earliest opportunity and no later than 14 days as of the date of its issue.

Interim Stay of proceedings

22. (a) If an application to commence proceedings was filed with respect to a corporation, and a proceeding against the corporation is pending at the time in Court or in the Labor Court, the Corporation or a creditor shall be entitled to request a stay of proceedings until the application is decided (in this section – application for stay of proceedings).

(b) If the proceeding against the corporation is pending in the District Court, in the National Labor Court or in the Supreme Court, the application for stay of proceedings will be heard in the court where the insolvency proceedings are heard; if the proceeding is pending in the Magistrates Court or the Labor Court – the application for stay of proceedings will be heard in the court where the insolvency proceedings are heard.

(c) In its decision in an application for stay of proceedings pursuant to this section, the Court will consider, *inter alia*, the considerations stated in section 20(b).

(d) The provisions of this section will not apply to criminal proceedings and to administrative proceedings.

Chapter D: Content of an order to commence proceedings and its effects

Decision on the winding up of the corporation or its operation for its financial rehabilitation

23. (a) The Court will order on the performance of one of the following in an order to commence proceedings;

(1) The operation of the corporation for its financial rehabilitation – if the Court was convinced that all of the following hold true:

(a) There is a reasonable chance for the financial rehabilitation of the corporation;

(b) There is no reasonable concern that the operation of the corporation will harm the creditors;

(c) There are means for financing the expenses associated with the operation of the corporation;

(2) Winding-up of the corporation – if the Court found that one of the conditions set out in paragraph (1) does not hold true.

(b) The operation of the Corporation shall be for a period that will not exceed nine months, in the manner ordered by the Court; the Court may extend the said period by additional periods that will not exceed three months each, if the Court found that the extension is required for the purpose of formulating the financial rehabilitation plan or the sale of the business of the Corporation.

Decision on the interim operation of the corporation

24. (a) If the Court is of the opinion that there are means for financing the expenses associated with the operation of the corporation and that there is no reasonable concern that the operation of the Corporation will harm creditors, however the Court does not have the necessary information to decide whether the financial rehabilitation of the corporation is reasonably possible, the Court will order, in an order to commence proceedings, on the interim operation of the corporation, during which the trustee will submit to the Court an initial opinion regarding the prospects of the financial rehabilitation of the Corporation.

(b) The initial opinion of the trustee will be submitted to the Court in 30 days; the Minister may prescribe the particulars that the trustee is required to include in his opinion.

(c) The Court will decide on the operation or the winding-up of the corporation at the earliest opportunity, after receiving the initial opinion of the trustee.

Effects of the order to commence proceedings

25. (a) After the issuance of an order to commence proceedings –

(1) The assets of the insolvency estate shall be made available for the payment of the past debts of the Corporation and the insolvency proceeding expenses only;

(2) The past debts of the Corporation will not be recovered from the insolvency estate however only in accordance with the provisions of this Law;

(3) The proceedings against the natural person shall be stayed, pursuant to the provisions of Chapter E: Stay of proceedings;

(4) The Court will appoint a trustee for implementing the insolvency proceedings of the Corporation, pursuant to the provisions of Chapter F: The appointment, duties and authorities of the trustee.

(b) Notwithstanding the provisions of sub-section (a), the order to commence proceedings shall not release the Corporation from its obligation to act in accordance with any provision of the law, including an administrative decision, except for the obligation to pay a past debt, subject to the provisions of section 31.

Notice regarding the issuance of an order to commence proceedings

26. (a) A notice regarding the issuance of an order to commence proceedings with respect to a corporation will be published in the form and on the date prescribed by the Minister.

(b) The trustee will provide a copy of the order to the Superintendent, and to any other person as ordered by the Court, in a manner and on the date ordered by the Court.

Mention of the proceedings in the corporation documents

27. A Court in respect of which an order to commence proceedings was issued will mention by its name the words “under rehabilitation” or “under winding-up,” as the case may be, in any document or publication on its behalf, as long as the insolvency proceedings are held with respect to the said Court.

Notice to the Registrar regarding an order to commence proceedings

28. Shortly after the issuance of the order to commence proceedings, the trustee will send a copy of the said order to the Registrar and the Registrar will enter a note in the Register in connection therewith.

Chapter E: Stay of proceedings

Stay of proceedings
against a corporation

29. Stay of proceedings against the corporation shall mean that –

(1) It will be impossible to commence collection proceedings of past debts against the corporation or continue with collection proceedings that were not completed yet; for the purpose of this matter, a collection proceeding shall be deemed as a proceeding that was completed with respect to assets – after the creditor received the full consideration for their sale, and with respect to attachment of the debt – at the time the debt was paid to the creditor;

(2) Realization of an asset from the assets in the insolvency estate that is charged under a fixed charge and the formulation of a floating charge that were made for the purpose of ensuring the payment of the past debts of the Court, and delivery of possession in an asset that is subject to retention of title from the Court to the owner of the asset and possession of the asset to which a right of lien applies, shall be subject to the restrictions and the provisions set forth in Chapter F: Creditors with special payment rights, in Part D, and all even if such proceedings as said did not commence prior to the issuance of the order to commence proceedings;

(3) An asset of the assets in the insolvency estate may not be pledged for the purpose of ensuring the past debts of the Court or the performance of any action in an encumbered asset that grants force to the charge towards third parties in accordance with the law;

(4) An attachment on any of the assets of the insolvency estate may not be imposed; an attachment that was imposed on such an asset as said prior to the issuance of the order to commence proceedings, except for an attachment that shall be deemed as a pledge pursuant to section 12A of the Tax Ordinance (Collection) – is repealed;

(5) Any legal proceeding against the corporation may not commence or continue however only after obtaining the approval of the Court that issued the order to commence proceedings; such approval as said will be granted if the Court found that there are special reasons that will be noted, relating to the nature or the complexity of the proceeding or its efficient management, and for which it is proper to conduct the proceeding separately from the insolvency proceedings;

(6) As of the issuance date of the order no penalties shall be added to a payment that is a past debt of interest in arrears, a penalty for delay or any other similar payment that the corporation was required to pay as a result of failure to make timely payments of the payments owed by the Corporation.

Stay of proceedings
against a third party

30. A stay of proceedings shall apply only to proceedings that commenced against the corporation, however the Court may, upon the occurrence of special circumstances and for reasons that will be noted, stay one or more of the proceedings as stated in section 29 also against anyone other than the corporation, including an office holder in the corporation, if all of the following hold true:

(1) The Court ordered in the order to commence proceedings with respect to the operation of the corporation for the purpose of its financial rehabilitation and the stay of proceedings against the said person is essential for the rehabilitation;

(2) The proceedings against the said person stem from his activity in the corporation or the debts owed by the corporation.

Limitation on
applicability to criminal
and administrative
proceedings

31. (a) Stay of proceedings shall not apply to criminal proceedings and administrative proceedings, with the exception of collection proceedings.

(b) Notwithstanding the provisions of sub-section (a), an administrative authority may not stipulate the performance of an administrative action on the payment of a past debt to which stay of proceedings applies.

(c) Notwithstanding the provisions of sub-section (a), the Court may order the stay of proceedings in respect of the imposition of a monetary sanction under extraordinary circumstances, and for the period prescribed by the Court, if the Court found that conducting such a proceeding at the time will impair the insolvency proceedings.

Suspension of limitation
period

32. The period in which the proceedings were stayed under this chapter will not be counted in the count of the periods set out in the Limitation of Actions Law, 5718-1958.

Chapter F: The appointment, duties and authorities of the trustee

Article A: Appointment of the trustee

Appointment of a trustee

33. (a) The Court will appoint a trustee for the purpose of implementing the insolvency proceedings at the time of issuing the order to commence proceedings.

(b) The trustee will be appointed out of a list of trustees that was formulated pursuant to section 37 (in this Article – the list of trustees) or pursuant to sections 35 or 36.

(c) The Superintendent will recommend to the Court on a number of candidates for the position of the trustee, whose number will not fall below three and will not exceed five, out of the list of trustees; the Superintendent will select the candidate that the Superintendent will recommend based on equal criteria that the Superintendent will formulate and publish in his internet website; the corporation and each creditor shall be entitled to offer to the Court additional candidates for the position of a trustee out of the list of trustees; however, if the Court appointed a trustee that was not recommended by the Superintendent, the Court shall refer to this issue in its decision.

(d) The Court will not appoint as a trustee a person who might be in a conflict of interests between his position as a trustee and any other of his personal matters or functions or that he, or his relative or any other person with whom he maintains personal or economic connections performs, including a conflict of interests stemming from an undertaking that the trustee made towards an interested party or to a representative of an interested party in insolvency proceedings.

(e) The Court may appoint a number of trustees if it found that this was necessary for special reasons that will be noted in connection with the complexity of the proceeding.

(f) The Superintendent will post regularly in his internet website the list of trustees the Superintendent recommended, and the identity of the trustee who was elected in each proceeding.

Temporary trustee

34. If the trustee cannot be appointed upon issuance of the order to commence proceedings, the Court will appoint a temporary trustee, out of the list of trustees, or pursuant to the provisions of section 35 or 36, who will perform this function until the appointment of the trustee.

Appointment of the Superintendent as a trustee

35. The Court may appoint the Superintendent as a trustee if the Court found that there is public interest in such appointment.

Appointment of an office holder in a corporation as a trustee

36. (a) The Court may appoint an office holder in a corporation as a trustee even if his name is not listed in the list of trustees if it was convinced, after it afforded to the creditors an opportunity to present their case, that they will assist the insolvency proceedings and that this will not harm the creditors; the Court will prescribe the authorities and the obligations of a trustee as said while avoiding, *inter alia*, a conflict of interests between them and the function and status of the office holder in the Corporation.

(b) If the Court appointed an office holder in a corporation as a trustee, the Court will appoint another trustee out of the list of trustees.

List of trustees

37. (a) The List of Trustees will be formulated by a public committee that the Minister will appoint and whose members are the following:

- (1) A retired District Court judge, who will act as chairman;
- (2) The Superintendent and his representative, or two representatives on behalf of the Superintendent;
- (3) A representative on behalf of the Israel Bar Association;
- (4) A representative on behalf of the Institute of Certified Public Accountants in Israel;

(b) Whoever is a member of the Israel Bar Association or whoever holds a license, pursuant to the Accountants Law 5715-1955 and has experience of five years of work in his profession, or has special competency or proven experience in the management of corporations under insolvency proceedings is eligible to be listed in the list of trustees, on the condition that a person who was convicted of an offense that, on the grounds of its essence, severity or circumstances, renders him ineligible, in the opinion of the Superintendent, to be listed in the List of Trustees.

(c) The Minister, with the recommendation of the Superintendent and the approval of the Constitution Committee, shall lay down instructions regarding the formulation of the List of Trustees pursuant to this section, and with respect to the following matters, *inter alia*:

- (1) Additional terms of eligibility that are required in order to be included in the list or limitations with respect to such inclusion as said, and in this regard shall be entitled to demand professional training or passing a professional test, and the Minister shall be entitled to lay down different

conditions of eligibility for different types of insolvency proceedings based on their scope and complexity;

(2) The work procedures of the Committee, including instructions regarding the publication and amendment of the list, including removal of names therefrom.

Security 38. The trustee, unless the Superintendent was appointed as a trustee pursuant to section 35, will deposit a security or enter into a contract for the purpose of insuring its liability in the performance of his function, in the manner ordered by the Court.

Trustee's fees 39. The Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the fees and expenses of the trustee, including the procedure for determining the said amounts.

Notice to the Registrar regarding the appointment of a trustee 40. The trustee will send notice regarding his appointment to the Registrar immediately after his appointment.

Article B: Duties and authorities of the trustee

Subordination of the trustee 41. The trustee will act on behalf of the Court and will be subject to its instructions and directions.

Duties of the trustee 42. (a) The function of the trustee is to act for the purpose of winding up the corporation or operate the corporation, and act for its financial rehabilitation, and all in accordance with the order to commence proceedings.

(b) When performing his function, the trustee –

(1) will decide in the debt claims, pursuant to Chapter A: Debt claims, in Part D;

(2) will act for the collection of the assets of the insolvency estate and administration thereof, pursuant to Chapter C: Collection and management of the assets of the insolvency estate in Part D;

(3) if the Court ordered on the operation of the corporation for its financial rehabilitation – the Court will formulate the optimal manner for its rehabilitation, as prescribed in section 58, and will act for the purpose of implementing it;

(4) if the Court ordered on the winding-up of the corporation – the Court will act for the purpose of realizing the assets of the insolvency estate

pursuant to the provisions of Chapter D: Realization of the assets in the insolvency estate, in Part D, and their distribution among the creditors, pursuant to Chapter E: Distribution of the assets of the insolvency estate, in Part D.

- Conferring the authorities of the organs and office holders on the trustee
43. After the appointment of the trustee, the authorities that are conferred on the organs and the office holders of the Corporation shall be conferred on the trustee, and the trustee will apply the said authorities to the extent required for the purpose of carrying out his position.
- Authorities the exercise of which requires the approval of the Court
44. (a) The trustee will exercise the following authorities only after obtaining the approval of the Court:
- (1) A claim or a defense in a legal proceeding in the name of the Corporation;
 - (2) Employment of a person who will assist the trustee in conducting the insolvency proceedings;
 - (3) Payment of a past debt to a specific type of creditors;
 - (4) Settlement of a creditor or a debtor of the Corporation regarding the amount of the debt and the manner of its payment, and that has a material effect on the scope of assets of the insolvency estate;
 - (5) Any other authority that requires the approval of the court pursuant to this Law or in accordance with the directions of the Court.
- (b) The approval of the Court as stated in sub-section (a) may be granted in general or ad-hoc.
- Application for directions
45. (a) The trustee may apply to the Court and request directions in anything related to the performance of his function or the exercising of his authorities under this Law.
- (b) If the application for directions can affect the rights of a third party other than the corporation or the trustee and the said application does not concern a debt claim filed under Chapter A: Debt claims, in Part D, the application will be heard in Court if the Court found that all of the following hold true:
- (1) The inquiry of the matter within the framework of an application for directions is necessary for the efficient performance of the duties of the trustee;
 - (2) The matter does not require a complex inquiry of the facts;

(3) The inquiry of the matter within the framework of an application for directions does not cause a material violation of a procedural right of a party.

(c) The Court will not decide in a criminal proceeding or an administrative proceeding in an application for directions.

Cooperation with the trustee

46. (a) Whoever was an office holder in a corporation will assist the trustee and cooperate with the trustee to the extent required for the purpose of performing the function of the trustee.

(b) The trustee shall be entitled to demand from whoever was an office holder in a corporation to submit to him, within a period as ordered by the trustee, a report on the state of affairs of the corporation; the report will specify the assets of the corporation, its obligations and liabilities, provide information regarding the creditors and any other information as ordered by the trustee and that the trustee requires for the purpose of filling his position; the expenses paid in connection with the preparation of the report, in the manner ordered by the trustee, shall be deemed as expenses for the insolvency proceedings.

Demand for assets and documents of the corporation

47. (a) The trustee shall be entitled to demand from any person to deliver him an asset or a document in his possession and that, in the opinion of the trustee, the Corporation is entitled to receive, and the said person will deliver the said items to the trustee on the date stated in the demand made by the trustee;

(b) If a person had a right of lien in an asset or a document as stated in subsection (a), the said asset or the document shall be delivered if the Court ordered such delivery as said, pursuant to section 254.

(c) A dispute in connection with the right of the Corporation in the asset or the document that the trustee demanded to receive to his possession will be inquired pursuant to the provisions of section 45(b).

Inspection of assets of corporation held by another

48. If the asset of the Corporation is held by another person, the trustee shall be entitled to inspect the asset, after the trustee notified the said person regarding his intention to inspect that asset.

Demand for information

49. For the purpose of performing his function, the trustee may demand any information relating to the affairs of the corporation and that corporation or an office holder therein were entitled to receive.

Information from a banking corporation and the Tax Authority

50. (a) Notwithstanding the provisions of any law, the Court may, after receiving a request from the trustee to that effect, order a banking corporation or the Tax Authority to provide to the trustee information as stated hereunder, even if the said in section 49 does not hold true, if it was convinced that the delivery of the information is necessary for the purpose of conducting an inquiry of the financial position of the Corporation and the benefit in providing such information as said outweighs the infringement of privacy of another person:

(1) With respect to a banking corporation – information regarding the assets, debts and business of the corporation, in the manner ordered by the Court;

(2) With respect to the Tax Authority – information regarding the assets of the Corporation.

(b) The court will order the provision of information from the Tax Authority pursuant to this section only in special cases and for reasons that shall be noted, and after the Court finds that the trustee was unable to obtain the information he requires in another manner and by applying reasonable effort, and that the provision of such information as said will not reveal the information sources of the Tax Authority or the manner of collection of such information, or affect an investigation conducted by the Tax Authority.

(c) The Court may hold the hearing regarding the application to receive in from the Tax Authority in chambers and, in special cases – even without the presence of the trustee, and state that the information will be provided in a manner that will prevent the exposure of its sources.

(d) Information whose provision the Court ordered pursuant to this section will be provided solely to the trustee, in the manner ordered by the Court, unless the banking corporation or the Tax Authority agreed to provide such information also to the creditors.

(e) The Minister and the Minister of Finance shall be entitled to lay down instructions regarding the manner of delivery of information from a banking corporation or the Tax Authority under this section; such instructions with respect to a banking corporation as said shall be decided in consultation with the Governor of the Central Bank of Israel; if no such instructions were given as said – the Court will order on the manner of providing the information.

(f) The Court will give instructions in accordance with this section after the Court afforded to the banking corporation or to the Tax Authority, as the case may be, an opportunity to present their case to the Court.

- Authority to investigate 51. If the Court ordered, pursuant to section 281(d), that an investigation as said in the said section will be conducted by the trustee, the trustee shall have the authority to conduct such an investigation, and all subject to the provisions of the said section.
- Confidentiality 52. The trustee and any person acting on his behalf will not use the information that reached his possession in the course of filling his position and in consequence of filling his position and will not disclose such information to another, however to the extent required for the purpose of filling his position or following a Court order.
- Trustee's reports 53. (a) The trustee will submit to the Court and to the Superintendent a periodic report in respect of the assets of the insolvency estate, the debt claims that the trustee approved and pending debt claims, and the actions that the trustee performed in the course of filling his duties.
- (b) The periodic report will be submitted at least once a year or more frequently if ordered by the Court or the Superintendent.
- (c) The Court or the Superintendent shall be entitled to demand from the trustee to submit to it an immediate report regarding a specific event concerning the insolvency proceedings.
- (d) The Superintendent shall be entitled to lay down instructions regarding the trustee's reports, including with respect to the manner of preparing the reports and the particulars included therein.
- (e) Any interested party in the insolvency proceedings shall be entitled to inspect and copy the trustee's reports; the Superintendent shall be entitled to lay down instructions regarding the right of inspection granted under this sub-section.
- (f) In the preparation of the report the trustee will take into consideration the privacy of the persons mentioned in the report, and will avoid including personal information whose disclosure is not necessary for the proceeding.
- Application to the Court by a party aggrieved by the actions of the trustee 54. Whoever was aggrieved or whoever might be aggrieved by the decision of the trustee or by an action that the trustee performed or intends to perform, or an omission

of the trustee, may apply to the Court and request a revocation or modification of the decision or the action or give any other instruction that he deems fit.

Early termination of trustee's appointment

55. (a) The Court may proactively terminate the appointment of a trustee, at the request of the trustee or at the request of an interested party in the insolvency proceedings, if it found that one of the following holds true:

- (1) The trustee does not perform his function properly;
- (2) The trustee is unable to perform his function regularly;
- (3) Any of the conditions that the trustee is required to satisfy no longer holds true in respect of the trustee.

(b) The decision of the Court on the termination of the trustee's appointment shall be made after the Court received the position of the Superintendent on the matter and after the Court afforded to the trustee an opportunity to present his arguments.

(c) If the office of the trustee was vacated, the Court will appoint another trustee in his place, pursuant to the provisions of Article A: Appointment of the trustee.

Termination of the trustee's appointment

56. (a) If the trustee terminated the performance of his position, the trustee will submit to the Court and to the Superintendent a concluding report of his activities.

(b) If the Court found, after receiving the position of the Superintendent, that the trustee completed filling his position, and if the Court ordered the winding-up of the corporation in the manner set out in section 99 – and that the winding-up was entered in the Register, the Court will order the termination of the trustee's appointment.

(c) The trustee will deliver notice to the Registrar regarding the termination of his appointment.

Chapter G: Operation of the corporation and its financial rehabilitation

Article A: General

Operation of the corporation by the trustee

57. (a) If an order to commence proceedings was issued with respect to a Corporation and the Court ordered its operation (in this section – corporation under Operation) the trustee will operate the business of the corporation for the purpose of facilitating the continuation of its existence as an active business until its financial rehabilitation, and the provisions of Article B: Operation of the Corporation, shall apply with respect to such operation.

(b) If the Court ordered on the interim operation of the Corporation pursuant to section 24, the Court will state which provisions under Article B: Operation of the Corporation, will apply in connection with the operation, taking into consideration the level of their necessity for the interim operation.

Manners of financial rehabilitation

58. (a) Concurrent with the operation of the Corporation, the trustee will act for the purpose of formulating the manner of its financial rehabilitation.

(b) The financial rehabilitation of the Corporation may be carried out by a financial rehabilitation plan, by way of selling the business operations of the Corporation without such a plan, or a combination of both.

Article B: Operation of the corporation

Sub-Article A: Actions and transactions involving the assets of the insolvency estate of a corporation under operation

Extraordinary transactions

59. The trustee will not perform a transaction in the assets of the insolvency estate of a corporation under operation, which is an extraordinary transaction, as meant by this term in the Companies Law, unless the Court approved that the transaction is required for the financial rehabilitation of the Corporation; such approval as said may be granted in advance for a specific type of transactions.

Restrictions on creditors with special payment rights

60. If a corporation is under operation, the restrictions set out in sections 245, 252, 253, and 254 shall apply to the realization of the assets that are charged under a fixed charge, creation of a floating charge, delivery of assets in respect of which there is a right of lien and receiving possession in assets that are subject to retention of title.

Encumbered asset and an asset subject to retention of title: use, lease and sale in the ordinary course of business

61. (a) In the ordinary course of business of a corporation under operation, the trustee may –

(1) use an asset in the insolvency estate which is an asset encumbered under a fixed charge, an asset on which a floating charge is imposed or an asset subject to retention of title, or lease such an asset, unless it was proven to the Court that one of the following holds true:

(a) The use or the lease are not required for the financial rehabilitation of the Corporation;

(b) After the use or the lease, the asset will not provide adequate protection to the secured creditor or to the owner of the asset, and no other manners ensuring such a protection were laid down as said;

(2) sell any of the assets in the insolvency estate which is an asset on which a floating charge was imposed or an asset subject to retention of title, and in this regard, it is free from any encumbrance or any other right, unless it was proven to the Court that the said in paragraph (1)(a) or (b) holds true;

(3) sell an asset from the assets of the insolvency estate, which is an asset encumbered under a fixed charge, and in this regard, when it is free from any encumbrance or any other right, if one of the following holds true:

- (a) The secured creditor agreed to such action as said;
- (b) The Court approved the sale, after it was convinced that the following holds true:

(1) The sale is required for the financial rehabilitation of the Corporation;

(2) The proceeds obtained for the asset or in any asset that will be purchased with such proceeds in return to such asset (in this Sub-Article – Alternative Asset) will assure adequate protection for the secured creditor, or other manners for ensuring such protection were prescribed as said.

(b) The approval of the Court pursuant to sub-section (a)(3)(b) may be granted in advance, ordinarily or with respect to a specific type of encumbered assets.

Encumbered asset and an asset subject to retention of title: use, lease and sale not in the ordinary course of business

62. (a) The trustee may, not in the ordinary course of business of a corporation under operation, use an asset of the assets in the insolvency estate, which is an asset encumbered under a fixed charge, an asset to which a floating charge applies or an asset that is subject to retention of title, lease or sell such asset, and in this regard sell such as an asset when it is free from any encumbrance or any other right, if one of the following holds:

- (1) The creditor or the owner of the asset that is subject to retention of title agreed to the said;
- (2) The Court approved this after it was convinced that the said in paragraphs (1) and (2) of section 61(a)(3)(b) holds true.

(b) The provisions of this section shall be without prejudice to the need for the approval of the Court for the extraordinary transaction, pursuant to section 59.

Payment using an encumbered asset

63. Payment by an encumbered asset shall be deemed as sale for the purpose of sections 61 and 62.

Tracing of rights

64. If an asset was sold, pursuant to section 61 or 62 (in this section – the original asset) when it is free from any encumbrance or any other right, the proceeds for the said asset or for the alternative asset that are identifiable or traceable, will be encumbered in favor of the creditor under the same priority level or shall be deemed as assets subject to retention of title, as the case may be, to the extent required for the purpose of ensuring the payment of the secured debt or for the purpose of ensuring the payment of the proceeds for the asset that is subject to retention of title, however the creditor or the owner of the asset may not recover from the alternative asset for an amount exceeding the value of the original asset.

New credit

65. (a) The Court may permit the trustee to engage in a contract for the purpose of receiving the credit that is required for the purpose of financing the operations of the corporation under operation or set a credit limit that the trustee shall be entitled to take for the purpose of financing such an activity as said, and all for the purpose and under conditions set out by the Court (in this section – new credit).

(b) The amounts required for the payment of the New Credit shall be deemed as the expenses of the insolvency proceedings, unless otherwise stated by the Court.

(c) If the Court was convinced that it is impossible to receive new credit for the required amount under the circumstances of the case, without ensuring its payment on an encumbrance on any of the assets of the insolvency estate that is not encumbered, or a deferred encumbrance on an encumbered asset or an asset subject to retention of title, it shall be entitled to permit the trustee to take new credit for the amount that will be set, whose payment will be secured with such an encumbrance as said, provided that the right of the owner on the asset that is subject to retention of title to recover from the Corporation as a result of failure to pay the proceeds shall take precedence over the right of the provider of the new credit.

(d) If the Court was convinced that it is impossible to receive new credit for the required amount under the circumstances of the case, in respect of its payment the provisions of sub-section (c) shall apply, and that the receipt of the credit is essential for the financial rehabilitation of the corporation, it may permit the trustee to take new credit for the amount it shall prescribe, whose payment will be secured with an encumbrance on an asset of the assets in the insolvency estate, which is an

encumbered asset or an asset subject to retention of title, under the same priority level of the existing encumbrance or the right of the owner in the asset, as the case may be.

(e) The Court will not permit to a trustee to take new credit, in the manner set out in sub-section (d), unless, after the encumbrance of the asset pursuant to the said sub-section, the encumbered asset or the asset subject to retention of title, as the case may be, does not provide adequate protection to the secured creditor or to the owner of the asset, or that other manners for the purpose of assuring such protection as said were laid down.

(f) A notice regarding the request of the trustee for new credit will be delivered to the creditors of the Corporation, in the manner ordered by the Court.

Sub-Article B: Existing contracts of a corporation under operation

Definition of an existing contract

66. In this Sub-Article “existing contract” – a contract to which a corporation under operation is a party, and the date it was made preceded the date of issuance of the order to commence proceedings with respect to the corporation, and its performance was not completed yet by the parties thereto until the said date.

Right of the trustee to rescind an existing contract without grounds for its rescission

67. The trustee shall be entitled to rescind an existing contract, even if the trustee has no grounds for such rescission as said, with the approval of the Court and in accordance with the provisions of this Sub-Article.

Restriction of rescission right of the other party to an existing contract

68. (a) The other party to an existing contract will not rescind such contract on the grounds of its breach by the corporation, however only in accordance with the provisions of this Sub-Article.

(b) The commencement of insolvency proceedings with respect to a corporation or the fact that a corporation is under insolvency proceedings shall not result in the rescission of an existing contract or confer on the other party to the contract a right to rescind such contract, even if such contract stipulates that the contract will be rescinded in such circumstances as said or that the contract includes a provision conferring on the other party the right to rescind the contract in such circumstances as said.

Consensual rescission of an existing contract

69. The trustee and the other party to an existing contract shall be entitled to agree at all times during the insolvency proceedings on the rescission of an existing contract.

Proceedings for the rescission of an existing contract without grounds for its rescission by the trustee

70. (a) If the trustee seeks to rescind an existing contract without grounds for its rescission, the trustee will notify the other party to the contract about the same.

(b) (1) If the other party did not agree to the rescission of the contract within a reasonable time as of the time of receiving the trustee's notice as stated in sub-section (a), the trustee shall be entitled to file in court an application for the approval of the rescission (in this section – application to approve rescission), provided that the application will be filed in 90 days as of the date of issuance of the order to commence proceedings in respect of the corporation;

(2) The Court shall be entitled to extend the period as stated in paragraph (1) with respect to all contracts of the corporation, for a particular type of contracts or a particular contract, by additional periods, if it found that this is justified in light of the complexity of the insolvency proceedings, provided that an application for the extension of the period will be filed in 90 days as of the issuance of the order to commence proceedings or during the extension period.

(c) If the trustee did not file in court an application to approve rescission within the period set out in sub-section (b), the trustee may file the application on a later date only if the circumstances changes or if new facts justifying such action were discovered.

(d) The Court may approve the rescission of the contract after it afforded to the other party to the contract an opportunity to present its case, if it found that the rescission was required for the financial rehabilitation of the Corporation, or that such rescission will increase the rate of the debt paid to the creditors, and may, following the request of the other party to the contract, order the rescission of only part of the contract, if it found that this is sufficient for the financial rehabilitation or for the purpose of maximizing the rate of the debt as said.

(e) From the time an existing contract was rescinded under this section, the entire rights and obligations of the Corporation under the contract shall be void as of the rescission date, however such rescission as said shall be without prejudice to the rights and obligations of another person however only to the extent required for the purpose of releasing the Corporation and its assets from liability.

Proceedings for the rescission of an existing contract by the other party to the contract

71. (a) If the other party to the contract had a right to rescind a contract as a result of its breach by the Corporation and the said party requested to rescind the contract, the said party will notify the trustee about the same.

(b) If the other party to an existing contract delivered notice to the trustee in the manner set out in sub-section (1), and the trustee is of the opinion that the continuation of the performance of the contract is necessary for the financial rehabilitation of the Corporation, the trustee may request from the Court, in 45 days as of the delivery date of the notice, to order the continuation of performance of the contract pursuant to section 72 (in this section – Application to Continue the Performance of a Contract); the Court may shorten or extend the period as said if it found that this is justified under the circumstances of the case.

(c) The Trustee may not file an application to continue the performance of a contract which is an employment contract, a contract for the performance of a personal service or a contract for the provision of credit, and the Court will not order the continuation of its performance.

(d) If the trustee did not file in court an application to continue the performance of a contract within the period prescribed in sub-section (b), the contract will be rescinded upon expiration of the said period.

Decision of the Court on the application of the trustee to continue performing a contract and its effects

72. (a) If the trustee filed in Court an application to continue the performance of a contract pursuant to section 71(b), the Court may order the continuation of the performance of the existing contract between the parties thereof, if it was convinced that the continuation of the performance of the contract was required for the financial rehabilitation of the corporation or that it will maximize the debt to the creditors and that the Corporation will perform its obligations in accordance with the contract, as of the date the Court decided on the continuation of the contract henceforth; the Court may prescribe the manners for ensuring the performance of the obligations under an existing contract as said, including the provision of a security.

(b) If the Court ordered the continuation of performance of an existing contract, the contract will not be rescinded by the other party thereof as a result of a breach that the Corporation committed earlier; if the Court dismissed the application to continue the performance of a contract filed by the trustee – the contract shall be rescinded on the date the Court makes its decision as said, or on any other date prescribed by the Court.

Expenses for the performance of the obligations of a corporation under an existing contract after the issuance of an order to commence proceedings

73. (a) If no existing contract pursuant to the provisions of this Sub-Article was rescinded, and if the Court ordered the continuation of its performance pursuant to section 72, the expenses for the performance of the obligations of the Corporation under the contract, as of the issuance date of the order to commence proceedings henceforth, shall be deemed as the expenses for the insolvency proceedings.

(b) If an existing contract was rescinded pursuant to the provisions of this Sub-Article, the expenses for the performance of the obligations of the Corporation under the contract, as of the issuance date of the order to commence proceedings and until its rescission date, shall be deemed as a past debt, and if the Court found that this is justified under the circumstances of the case – the said expenses shall be deemed as the expenses of the insolvency proceedings.

(c) Notwithstanding the provisions of sub-section (b), if the other party of an existing contract applied to the trustee and requested from the trustee to inform him whether he intends to act for the rescission of the contract, or the other party to an existing contract notified the trustee that he wishes to rescind the contract, as stated in section 71(a), the expenses for the performance of the obligations of the Corporation under the contract, as of the date of the application or the notice as said, and until a decision regarding the rescission of the contract or the continuation of its performance, as the case may be, shall be deemed as the expenses of the insolvency proceedings.

Harm as a result of breach of an existing contract that preceded the decision on rescission or continuation of performance

74. (a) If an existing contract was rescinded, and a person was aggrieved as a result of the breach of the contract by the Corporation that was committed prior to the rescission or as a result of the rescission, the said person shall be deemed as a creditor of the corporation up to the amount of the harm caused, and the said amount shall be deemed as past debt.

(b) If the Court ordered on the continuation of performance of an existing contract pursuant to section 72, and the other party to the contract was aggrieved as a result of its breach by the Corporation prior to the issuance date of the order to commence proceedings, the said party shall be deemed as a creditor of the corporation up to the amount of the harm caused, and the said amount shall be deemed as past debt; however the Court may order that the amount of the harm as said shall be deemed as the expenses of the insolvency proceedings, if it was convinced that the separation of the obligation that was breached pursuant to the decision of the Court from the obligation that was performed thereafter is unreasonable and unjust under the circumstances of the case, and that the other party to the contract performs its

obligations in accordance with the contract during the period after the issuance of the order to commence proceedings.

Assignment of rights and obligations under an existing contract

75. (a) Notwithstanding the provisions of the Assignment of Obligations Law 5729-1969, and subject to the provisions of sections 61-63, the Court may approve the assignment of rights and obligations of a corporation under operation to an assignee whose identity will be approved by the Court, even if the contract includes a provision preventing such assignment as said, and with respect to the assignment of liability – even without obtaining the approval of the other party to the contract, provided that the assignment is required for the financial rehabilitation of the corporation or for reducing the rate of the debt paid to the creditors and does not affect the other party to the contract.

(b) The Court shall be entitled to lay down conditions for the assignment under this section, including the manners for ensuring the performance of the obligations that were assigned by the assignee, including the provision of a security.

Application of provisions to a contract rescinded shortly before the issuance of an order to commence proceedings

76. The provisions that apply under this Sub-Article to an existing contract shall apply, *mutatis mutandis*, also to a contract to which a Corporation under Operation was a party and that was lawfully rescinded shortly before the issuance date of the order to complication proceedings and its performance was not completed yet by the parties thereof on its rescission date.

Sub-Article C: Supply of essential services and commodities to a corporation under operation

Supply of infrastructure services

77. (a) In this Sub-Article –

“Existing contract” – as defined in section 66;

“Infrastructure provider” – whoever engages in the supply of infrastructure services;

“Essential service or commodity” – a service or a commodity required for the continuation of operations of a corporation under operation, except for infrastructure services;

“Infrastructure services” – the supply of electricity, the supply of water or other infrastructure services prescribed by the Minister in consultation with the Minister in charge of the regulation of the operations relevant to that infrastructure, and with the approval of the Constitution Committee.

(b) If an infrastructure supplier provided infrastructure services to the corporation, including under an existing contract, shortly before the issuance date of an order to commence proceedings with respect to the corporation, or shortly before the said date, even if it discontinued supplying such services, and if the corporation is a corporation under operation, the infrastructure supplier will continue to supply the infrastructure services to the corporation.

(c) The infrastructure services as stated in sub-section (b) shall be provided in return for consideration and the terms of supply that were customary between the parties or in the manner as ordered by the Court, and all in accordance with the provisions of the law that apply to the terms of payment and supply of the infrastructure service, provided that the consideration does not include consideration for the infrastructure services that were supplied to the Corporation prior to the issuance of the order to commence proceedings.

(d) Notwithstanding the provisions of sub-section (b), the Court may permit to an infrastructure supplier not to supply the infrastructure services to a corporation under operation, if it was convinced that the continuation of supply of such services as said is not necessary for the financial rehabilitation of the Corporation.

(e) If no consideration was paid to the infrastructure supplier in accordance with the provisions of sub-section (c) for the infrastructure services that it supplied to a corporation under operation after the issuance date of the order to commence proceedings, or if the Court was convinced that there is a reasonable concern that the consideration will not be paid in accordance with the provisions of the said sub-section, the Court may prescribe the manners for ensuring the payment of the consideration as said, including the provision of a security, and in the absence of such manners as said – permit to the infrastructure supplier not to supply the infrastructure services.

Supply of an essential service or commodity

78. (a) If a person supplied to a corporation an essential service or a commodity not by virtue of an existing contract, shortly before the issuance date of an order to commence proceedings with respect to the corporation, or shortly before the said date even if it discontinued supplying it, and if the corporation is a corporation under operation, the Court may order the said person (in this section – essential supplier) to continue and supply to the Corporation under Operation the essential service or commodity if all of the following hold true:

(1) The continuation of the supply of the essential service or the commodity is required for the financial rehabilitation of the corporation or for decreasing the rate of the debt paid to the creditors;

(2) Under the circumstances of the case, it is impossible to replace the essential supplier with another supplier immediately and under conditions that are similar, or there is a special difficulty preventing such action;

(3) The essential supplier refuses to continue and supply to the corporation the essential service or commodity for unreasonable reasons, or stipulates the continuation of the supply on unreasonable conditions compared to the customary conditions in the market; the following reasons, *inter alia*, shall be deemed as unjustified reasons:

(a) The status of a corporation as a corporation under financial difficulties;

(b) The existence of insolvency proceedings against the corporation;

(c) Failure of the Corporation to pay a past debt;

(4) The Court was convinced that the consideration for the supply of the essential service or commodity will be paid in accordance with the provisions of sub-section (b), and shall be entitled to prescribe the manner of ensuring the payment of the consideration as said, including the provision of a security.

(b) The supply of the essential service or commodity pursuant to sub-section (a) shall be made for a period as ordered by the Court and will not exceed 60 days as of the issuance date of the order to commence proceedings, for the consideration, terms of payment and supply terms that were customary between the parties or in the manner as ordered by the Court.

(c) The Court shall be entitled to extend from time to time the period set out in sub-section (b) for a period that will not exceed 60 days each, if it was convinced that there is no alternative for the replacement of the essential supplier without affecting the financial rehabilitation of the corporation or maximizing the rate of the debt paid to the creditors and that the conditions set out in sub-section (a) continue to hold true.

Consideration for the supply of infrastructure services or an essential service or commodity

79. The consideration for the supply of the infrastructure services or an essential service or commodity pursuant to this Sub-Article shall be deemed as the expenses of the insolvency proceedings.

Article C: Financial rehabilitation plan

- Preparation of a financial rehabilitation plan by the trustee
80. In the financial rehabilitation of a corporation that is carried out by a financial rehabilitation plan, the trustee will act, concurrently with the operation of the corporation, for the purpose of preparing and approving the plan by the creditors, by the members of the corporation, to the extent that their approval is required, and by the Court, and all in accordance with the provisions set forth in this Article.
- Formulating proposals for a financial rehabilitation plan
81. (a) For the purpose of formulating proposals for a financial rehabilitation plan, the trustee may, *inter alia*, conduct negotiations with the creditors and with any other interested parties in the insolvency proceedings, and apply to any person to submit a proposal for a plan or publish an invitation to submit such proposals from the public as said.
- (b) In the formulation of the proposals for the financial rehabilitation plan as said, the trustee will take into consideration, *inter alia*, the expected claims from the National Insurance Institute for payment of the benefits pursuant to Chapter H of the National Insurance Institute Law.
- Submission of proposals to the Court
82. (a) The trustee will submit to the Court one or more proposals for a financial rehabilitation plan formulated by the trustee pursuant to section 81, and will send to the Superintendent a copy thereof.
- (b) A proposal for a financial rehabilitation plan will include the entire information that is required for the purpose of deciding in the case, and will refer to the following matters, *inter alia*:
- (1) The proposed manner for the continuation of the business operations of the corporation, including reorganization of the corporation structure, its merger or split and the dates in which the material actions that are required for the implementation of the plan are expected;
 - (2) The estimates and the data on which the plan is based, and if more than one plan was proposed – a comparison between the plans;
 - (3) The consideration proposed for each of the types of the creditors and to the members of the corporation and the waiver of the rights required from them, compared to the consideration they would have received following the winding-up of the corporation or the alternatives to the financial rehabilitation plan; the proposed consideration may include

interest in arrears, even if accrued after the issuance date of the order to commence proceedings;

(4) If the members of the corporation have any rights by virtue of their status as members of the corporation – the value of the right remaining, and in particular the rights remaining with the controlling shareholder and the consideration that the members of the corporation paid in respect whereof and the option to pay the debts of the corporation by way of allocation of the said rights to the creditors or by way of their sale to third parties;

(5) If the proposed plan included a provision stipulating that the creditors or the corporation shall be precluded from bringing suit against an office holder in the corporation, an interested party in the Corporation, as meant by this term in the Companies Law or any other person (in this paragraph – exemption from liability) – the estimated economic value of the exemption from liability, to the best of knowledge of the trustee and the considerations for granting such an exemption as said.

(c) The Minister may add additional particulars that a financial rehabilitation plan will include and the documents that should be attached thereto.

Presenting a proposed financial rehabilitation plan for the approval of the creditors and the members of the corporation

83. (a) If a proposal for a financial rehabilitation plan was submitted to the Court, the Court will order that the said proposal will be presented to the creditors.

(b) If the total amount of assets of the corporation exceeded its total debts and the proposed consideration for each creditor in accordance with the proposal for the financial rehabilitation plan is equal to the entire amount of the past debt subject matter of his creditorship – the Court will order to present such a proposal also for the approval of the members of the corporation.

(c) Notwithstanding the provisions of sub-sections (a) and (b), if the Court found that the mere presentation of the proposal for the approval of the creditors harms the insolvency proceedings, the Court will not order to present the proposal for the approval of the creditors and the members of the Corporation.

Creditor class meetings

84. (a) The approval of a proposal for a financial rehabilitation plan will be granted in meetings that will be convened for each class of creditors or members of the Corporation (in this Article – class meetings) that the trustee will convene in accordance with the instructions of the Court; “class” for the purpose of this matter –

a group of creditors or members in the corporation with common interest regarding the financial rehabilitation plan, that is substantially distinct from the interest of the other creditors or the members of the Corporation and that justifies the convening of a separate meeting.

(b) For the purpose of convening meetings under this section and voting in such meetings as said, the trustee will decide regarding the right of each of the creditors or a member of the Corporation to vote in the meeting and will decide the power of his vote based on the rate of the past debt he credited or based on the rate of his rights in the Corporation, as the case may be; such a decision as said shall be in effect regarding the decision of the voting power in the meetings solely under this section.

(c) If the Court ordered to present a number of proposals for the approval in the meetings, the Court will order on the manner of decision in such proposals as said in the meetings.

(d) A creditor or a member in the Corporation will exercise the voting right in Class Meetings in good faith and in customary manner and will avoid abusing his power.

(e) The Minister, with the approval of the Constitution Committee, will lay down instructions regarding the manner that the proceeding will be conducted pursuant to this section, including for the purpose of determining the voting power under sub-section (b) and with respect to the manner of voting in the Class Meetings.

Approval of a financial rehabilitation plan by the creditors and the members of the corporation

85. (a) The proposal for a financial rehabilitation plan shall be deemed as a proposal approved by the creditors and the members of the Corporation, if approved in each of the Class Meetings, in accordance with the provisions set forth hereunder:

- (1) The majority of the voters in that vote supported the said proposal;
- (2) The voters who supported the proposal hold jointly at least three quarters of the voting power of all voters in that meeting.

(b) "Voters" in this section – except for those who abstained in the vote.

Approval of a financial rehabilitation plan by the Court

86. (a) If a proposal for a financial rehabilitation plan was approved by the creditors and the members of the Corporation as stated in section 85, the trustee will present the proposal for the approval of the Court.

(b) When coming to approve a financial rehabilitation plan the Court will consider, *inter alia*, considerations relating to the fairness of the proceeding, and shall be entitled to examine other considerations, including considerations relating to the employees of the Corporation or for the benefit of the public.

Approval of the Court in the absence of majority at each of the class meetings

87. Notwithstanding the provisions of sections 85 and 86(a), the Court may approve a proposal for a financial rehabilitation plan even if not approved in each of the class meetings by the requisite majority pursuant to section 85, if it was convinced, to the extent possible based on the valuation of the corporation that an expert on its behalf or on behalf of the relevant parties submitted, that this proposal is fair and just with respect to each of the creditors or the members of the Corporation in a class meeting that did not approve it (in this section – objecting meeting), and in this regard was convinced that the following holds true:

(1) If no financial rehabilitation plan is approved, there is no alternative but to wind up the Corporation and the consideration that was offered to each of the creditors or the members of the Corporation in an objecting meeting is not lower compared to the consideration that he would have received at the time of winding-up of the corporation;

(2) The proposal does not assure any consideration to the members of the corporation, and in this regard does not provide to the members of the corporation an asset in which they have a right by virtue of their position as members of the corporation, and none of the creditors in an objecting meeting received a promise for consideration equal to the entire amount of the past debt subject matter of his creditorship;

(3) Each of the secured creditors in an objecting meeting was promised a consideration whose value is not low compared to the value of the asset encumbered in his favor or from the total debt for whose payment the asset was encumbered, whichever is lower; such consideration as said may be paid in cash or cash equivalents, for immediate payment or a number of payments, provided that the manners for ensuring the payments were laid down; “value of the encumbered asset” for the purpose of this matter – the market value of the encumbered asset after the proposal is approved by the Court, with deduction of the expenses paid for the preservation or the realization of the asset, and if the asset is encumbered in favor of the creditor in a floating charge only – with an additional deduction of 25% of the value of the asset, in accordance with the provisions of section 244.

Limitation on the approval of a financial rehabilitation plan by the Court	88. The Court will not approve a proposal for a financial rehabilitation plan if it was convinced that the consideration that was offered to a creditor who did not support the proposal is lower than the consideration that the said creditor would have received on the winding-up of the corporation, even if the class meeting in which the creditor is a part approved the proposed plan.
Effect of an approved financial rehabilitation plan	89. (a) A financial rehabilitation plan that was approved under this Article will oblige the Corporation, the members of the Corporation and the creditors. (b) A Corporation may not be released from payment of penalty within the framework of the financial rehabilitation plan.
Implementation of a financial rehabilitation plan	90. (a) The trustee will act for the purpose of implementing a financial rehabilitation plan that was approved under this Article, including for the distribution of the consideration received within the framework of the plan among the creditors, in accordance with the instructions set forth in the plan. (b) The Court that approved a financial rehabilitation plan is authorized to hear the dispute that arose in connection with the interpretation or the implementation of the plan.
Reinstatement of authorities to the organs and office holders of a corporation	91. If a financial rehabilitation plan was approved under this Article, the authorities that were conferred on the trustee pursuant to section 43 will be reinstated to the organs of the corporation and its office holders, in accordance with the instructions set forth in the plan and on the date set out in the plan, unless otherwise ordered by the Court.
Notice to the Registrar on the approval of a financial rehabilitation plan	92. The trustee will send a copy of the financial rehabilitation plan to the Registrar immediately after the approval of such plan.

Article D: Sale of the business operations of a corporation without a financial rehabilitation plan

Sale of business operations of a corporation	93. (a) The sale of the business operations of a corporation for the purpose of its financial rehabilitation not within the framework of a financial rehabilitation plan will require the prior approval of the Court; when coming to approve such a sale as said, the Court will examine considerations, <i>inter alia</i> , relating to the fairness of the proceeding.
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(b) If the sale of the business operations of the corporation pursuant to subsection (a) was approved, the consideration received from the sale will be distributed in accordance with the provisions set forth in Chapter E: Distribution of the assets of the insolvency estate in Part D, unless a financial rehabilitation plan was approved afterwards.

Article E: Transition to winding up proceedings

Cessation of operation of the corporation and transition to winding up proceedings

94. (a) If the Court ordered that the corporation will be operated for its financial rehabilitation and afterwards found that it is not reasonably possible that the Corporation will be financially rehabilitated or that the continuation of operation of the Corporation will harm the creditors, the Court will instruct in an order on the cessation of operation of the Corporation and its winding-up.

(b) The decision of the Court on the cessation in the operation of the Corporation and its winding-up shall be without prejudice to the effect of a contract or a transaction that the trustee made, the transfer of an asset or a payment made by the trustee.

Chapter H: Winding-up

Actions of the trustee in winding up

95. If an order to commence proceedings was issued and the Court ordered the winding-up of the corporation (in this Chapter – corporation in winding-up) the trustee will act at the earliest opportunity for the purpose of realizing the assets of the insolvency estate and their distribution to the creditors in accordance with the provisions of Part D: Creditorship.

Right of the trustee to rescind an existing contract without grounds for its rescission

96. The trustee shall be entitled to rescind an existing contract, as defined in section 66, to which the corporation in winding-up is a party, in accordance with the provisions of section 67, and the provisions of sections 69, 70, 73 and 74(a) shall apply for the purpose of this matter, *mutatis mutandis*.

Operation of a corporation in winding up

97. (a) The Court may order the trustee to operate the corporation in winding-up for a period as ordered by the Court, to the extent that this is required for the purpose of its winding-up or for the purpose of maximizing the amount of the debt paid to the creditors.

(b) The provisions of Article B: Operation of a corporation in Chapter G shall apply to the operation of the corporation in winding-up, however the authorities under the said Article will be exercised only to the extent that they are required for the

purpose of winding-up the Corporation and to the extent that they are necessary for the winding-up.

Cessation of winding up and transition to financial rehabilitation proceedings

98. If the Court ordered on the winding-up of the corporation and found afterwards that its financial rehabilitation is reasonably possible, that there are means for financing the expenses in connection with the operation of the corporation and that there is no reasonable concern that the operation of the corporation will harm the creditors, the Court will instruct in an order on the cessation of the winding-up proceedings and the operation of the corporation for its financial rehabilitation.

Dissolution of a corporation

99. (a) After completing the winding-up of the corporation the Court will order in an order the dissolution of the corporation; the corporation will be dissolved as of the date of issuance of the order.

(b) The Court will order on the manner of handling the documents of a corporation that was dissolved, and the documents of a trustee, provided that the said documents will be saved for a period of seven years as a minimum.

(c) Immediately after the issuance of the dissolution order, the trustee will send a copy of the said order to the Registrar, and the Registrar shall enter a note in the Register regarding the dissolution; the trustee will announce the registration of dissolution of the corporation to the Court and to the Superintendent.

Revocation of dissolution

100. The provisions of section 342ZZ of the Companies Law shall apply to the revocation of dissolution of a company.

Part C: Insolvency proceedings in respect of a natural person

Chapter A: Applicability and general provisions

Applicability – Part C

101. (a) The provisions of this part shall apply to insolvency proceedings with respect to a debtor that is a natural person (in this part – the natural person).

(b) No insolvency proceedings shall commence in respect of a natural person under this Part unless one of the following holds true with respect to him:

(1) The center of his life at the time of filing the application to commence proceedings or earlier, starting in the six months that preceded the said date, is in Israel;

(2) He has assets in Israel or he conducts business in Israel on the filing date of the application to commence proceedings.

Those who may file an application to commence proceedings in respect of a natural person

102. The following may file an application to commence proceedings with respect to a natural person:

- (1) The natural person;
- (2) A creditor;
- (3) The Attorney General.

The competent authority to hear the application
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103. (a) The application of the Natural Person to commence proceedings will be submitted to the Superintendent in accordance with the provisions of Chapter B: Order to commence proceedings, following the application of a natural person whose total debts exceed NIS 149,559.6.

(b) Notwithstanding the provisions of sub-section (a), an application to commence proceedings by a Natural Person whose total amount of his debts does not exceed NIS 149,559.6 will be submitted to the Execution Registrar pursuant to the provisions of Chapter L: Insolvency proceedings, in respect of a natural person with small debts.

(c) The application of a creditor and the application of the Attorney General for an order to commence proceedings will be submitted to the Court, pursuant to the provisions of Chapter C: Order to commence proceedings applied for by a creditor or by the Attorney General.

Chapter B: An order to commence proceedings applied for by a natural person whose total amount of debt exceeds NIS 150,000

Application of a natural person from the Superintendent

104. (a) A Natural Person may file an application to commence proceedings to the Superintendent (in this Part – Application of the Natural Person) if all of the following hold true:

(1) He is insolvent, or the order will help in preventing his insolvency;

(2) The total amount of his debts exceeds NIS 149,559.43.

(b) The Natural Person will attach the following to the Application:

(1) An affidavit, in the form prescribed by the Minister, stating that he satisfies the conditions for filing the Application;

(2) A report that includes the following particulars with respect to the two years that preceded the filing date of the Application, made according to a form prescribed by the Minister, and authenticated in an affidavit that is supported with documents:

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(a) Information regarding his assets, income, expenses, obligations and liabilities, including information about his bank accounts, securities he provided, and information regarding the identity of his creditors and whoever owes a debt to the Natural Person;

(b) Claims and collection proceedings that he conducts or that are conducted against him;

(c) His profession and education;

(d) Information he knows about the assets of his spouse, his minor children and his adult children depending on him, their income, expenses, debts and liabilities, including information about the bank accounts of his spouse;

(3) A waiver of confidentiality and consent to provide information regarding the following matters and from the following authorities:

(a) Information regarding his address, assets, debts, the amount of his income and the sources of his income – from any authority, including a public entity, as meant by this term in the Protection of Privacy Law 5741-1981, however except for an entity enumerated in column A in Part A of the First Schedule and the Israeli Tax Authority;

(b) Information regarding his financial position and regarding his departures from and entries to Israel – from any entity enumerated in column A in Part A of the First Schedule with respect to the matters as stated beside it in column B.

(c) In a report as stated in sub-section (b)(2) the natural person may specify certain particulars as containing sensitive personal information that the natural person requests that the creditors will not inspect, and the provisions of section 107(b) shall apply for the purpose of this matter.

(d) The application of the natural person will be submitted to the Superintendent in the district where he resides or in which he has his principal place of business or where his assets are located, and in the absence of such a district as said – in Jerusalem, and such an Application may also be submitted online; “district” for the purpose of this matter – based on the jurisdictions of the district court prescribed

by the Minister of Justice pursuant to section 33 of the Courts Law [Consolidated Version] 5744-1984.

Decision of the Superintendent in the application of the natural person

105. (a) If the Superintendent found that the conditions set out in section 104(a) hold true, the Superintendent will issue an order to commence proceedings in 30 days as of the date the natural person filed the application as said.

(b) For the purpose of making a decision pursuant to sub-section (a), the Superintendent shall be entitled to inspect the report that the natural person submitted pursuant to the provisions of the said section.

(c) If the Superintendent is of the opinion that the information he has is insufficient for the purpose of making a decision in the application of the natural person, he may demand from the natural person additional information that he requires for that purpose, or summon him to a hearing before him; if the Superintendent presented such a demand as said, he will give his decision in 30 days as of the date of receiving the information or after the hearing.

Publication of notice regarding the issuance of the order and delivery of a copy

106. (a) A notice on the issuance of an order to commence proceedings with respect to a natural person will be published in the manner and on the date prescribed by the Minister.

(b) The Superintendent will send a copy of the order to commence proceedings to the natural person and to the creditors whose identity is known to the Superintendent.

Inspection of the order and of the application filed by the natural person

107. (a) If an order to commence proceedings was issued pursuant to section 105, a creditor shall be entitled to inspect such order as said and, subject to the provisions of sub-section (b), in the Application of the natural person and in the part of the report and the documents relating to the case of the Natural Person that were attached to the Application, and copy the said materials.

(b) If the natural person stated that certain particulars in the report he submitted include sensitive personal information in his case pursuant to section 104(c), the Superintendent will deliver such particulars for the inspection of the creditors only if he was convinced that this was necessary for the creditor for the purpose of filing an application to revoke the order to commence proceedings and after he took into consideration the infringement of privacy associated therewith, and the Superintendent shall be entitled to provide only part of the information or stipulate the provision of such information on conditions.

(c) The Superintendent shall be entitled to permit to a creditor to inspect additional parts of the report and the documents that were attached to the application of the natural person and that concern the affairs of the spouse of the natural person or his children, and copy such parts as said, if he was convinced that the inspection of such parts as said is required for the creditor for the purpose of filing an application to revoke the order to commence proceedings and after he took into consideration the infringement of privacy associated therewith.

(d) The Superintendent shall lay down instructions regarding the right of inspection under this section.

Application to revoke an order to commence proceedings

108. (a) Whoever considers himself aggrieved as a result of the issuance of an order to commence proceedings may file to the court an application for revocation of such order, in 45 days as of the publication date of the notice regarding the issuance of the order pursuant to section 106; the applicant will send to the Superintendent a copy of the application.

(b) If an application for the revocation of an order to commence proceedings was filed, the Court will decide whether to stipulate the coming into force of the order or its effects, in whole or in part, until a decision in the application is made.

(c) A hearing of an application to revoke an order to commence proceedings shall be held at the earliest opportunity; if the Court decided to stipulate the coming into force of the order or its effects ex parte, the Court will hold a hearing in the presence of the parties at the earliest opportunity, and no later than 14 days as of the date of the decision.

(d) If the Court was convinced that an application to revoke an order to commence proceedings was filed in bad faith, the Court may order the applicant, as part of the imposition of costs, to pay trial costs or double the trial costs, or expenses in favor of the treasury of the State or both.

(e) The Minister may lay down instructions regarding the filing of an application to revoke an order to commence proceedings, including with respect to the particulars contained therein and the manner of its service.

Chapter C: Order to commence proceedings applied for by a creditor or by the Attorney General

Application of a creditor from the Court

109. (a) A creditor shall be entitled to file in court an application for an order to commence proceedings (in this Part – the application by a creditor) if the natural person is insolvent; the proof of insolvency of the natural person may be provided by the presumption as stated in section 110.

(b) A creditor of a debt whose payment date has not arrived yet may not file an application for an order to commence proceedings however only if one of the following holds true:

- (1) The Natural Person acts for the purpose of deceiving his creditors;
- (2) The Natural Person acts for the purpose of diminishing his assets for the purpose of concealing them from his creditors;
- (3) The Natural Person cannot pay the debt, provided that the payment date of the debt is due in six months as of the filing date of the application.

Presumption of insolvency in an application by a creditor Notice 5781-2021

110. (a) With regard to an application by a creditor, it shall be presumed that the Natural Person is in a state of insolvency if one of the following holds true (in this section – presumption of insolvency):

(1) The creditor delivered to the natural person a demand to pay a debt for an amount exceeding NIS 74,779.8 made in a form prescribed by the Minister, and in which he stated that if the debt is not paid on the date as stated in the demand, he intends to file an application to commence proceedings, and the debt was not paid in 45 days as of the date of delivering the demand, provided that all of the following hold true:

(a) There is no good faith dispute regarding the debt and the Natural Person has no right of setoff or other grounds that can justify avoidance from payment of the debt;

(b) The creditor filed the application to commence proceedings in three months as of the date he delivered the demand for payment to the Natural Person;

(2) The creditor delivered to the natural person a notification pursuant to section 7 of the Execution Law or a demand for payment pursuant to section 4 of the Tax Ordinance (Collection), for the payment of debt whose amount exceeds NIS 74,779.8 and the debt was not paid within the period set out in the notification or the demand;

(3) The Court gave a judgment ordering the natural person to pay to the creditor who filed the application an amount exceeding NIS 74,779.8 and the judgment, in whole or in part, was not performed, in 30 days as of the date it was served to the natural person or another date set out in the judgment, whichever is later, provided that if the judgment was performed in part – the outstanding amount exceeds NIS 74,779.8;

(4) The Labor Court gave a judgment ordering the natural person to pay to the creditor who filed the application an amount exceeding NIS 9,970.64 and the judgment was not performed, in whole or in part, in 30 days as of the date it was served to the natural person or as of another date as stated in the judgment, whichever is later, provided that if the judgment was performed in part – the outstanding amount exceeds NIS 9,970.64.

(b) In an application by a creditor that is based on the presumption of insolvency, the creditor will state whether he commenced collection proceedings and which proceedings he commenced, and why the collection proceedings are insufficient for the purpose of collecting the debt.

(c) The presumption of insolvency may be rebutted by the natural person if the natural person proved that failure to pay the debt does not stem from his insolvency.

(d) (1) In the calculation of an amount of debt exceeding NIS 74,779.8 with respect to the fulfillment of any of the conditions set out in paragraphs (1), (2) and (3) in sub-section (a), it is possible to take into consideration a number of debts stemming from one or more of the said paragraphs, whether of the same creditor and whether by a number of creditors;

(2) In the calculation of an amount of debt exceeding NIS 9,970.64 with respect to the satisfaction of the condition in paragraph (4) in sub-section (a), it is possible to take into consideration a number of debts, whether of the same creditor and whether of a number of creditors.

Attachment of documents to an application to commence proceedings

111. The creditor will attach to the application to commence proceedings an affidavit corroborating the facts on which his application is based; the Minister shall be entitled to instruct on the addition of other documents that the creditor will be required to attach to his application.

- Delivery of a copy of the application to commence proceedings
112. A creditor who files an application to commence proceedings will provide a copy of such application as said to the natural person and to the Superintendent immediately after its filing.
- Filing an objection to the application to commence proceedings
113. (a) A person who might be aggrieved by the issuance of an order to commence proceedings shall be entitled to file to the Court an objection to the application by a creditor.
- (b) The Minister will lay down instructions regarding the filing of the objection, including with respect to the particulars contained therein, its filing date and the manner of its service.
- Imposing costs due to filing of an application by a creditor in bad faith
114. If the Court was convinced that the application by a creditor was filed in bad faith, it may order the applicant who filed the application, as part of the imposition of costs, to pay trial costs or double trial costs, expenses in favor of the treasury of the State or both.
- Hearing of application by a creditor
115. (a) A hearing of an application by a creditor and the objections that were filed against it will be held at the earliest opportunity.
- (b) The Court may, following its initiative, or at the request of the creditor or the Superintendent, summon the natural person to testify and demand him to present documents to the Court.
- (c) The Court will make its decision in the Application of a Creditor at the earliest opportunity after holding the hearing of the Application and its objections.
- Decision of the Court in the application of a creditor
116. (a) If the Court finds that the conditions enumerated under section 109 hold true, it will issue an order to commence proceedings.
- (b) Notwithstanding the provisions of sub-section (a), the Court may dismiss the application to commence proceedings if it found that the issuance of the order, in and of itself, will have an adverse effect on the possible financial rehabilitation of the Natural Person; the court will examine for the purpose of this matter, *inter alia*, whether the dismissal of the application will harm creditors and the general financial ability of the Natural Person.
- (c) If an order to commence proceedings was issued following the application by a creditor, the provisions of sections 106 and 107 regarding the publication of a

notice regarding the issuance of the order, delivery of a copy thereof and inspection of such order shall apply.

A report on the financial status of a natural person

117. (a) A natural person against whom an order to commence proceedings was issued following an application by a creditor, will submit to the trustee, in 21 days as of the issuance date of the order, a report on his financial status in the two years that preceded its submission date; the report will be submitted in an order prescribed by the Minister and will be authenticated with an affidavit supported by documents with all particulars enumerated in section 104(b)(2); the Superintendent shall be entitled to extend the period for the submission of the report if he found that this is justified under the circumstances of the case.

(b) In a report submitted pursuant to the provisions of sub-section (a), the natural person shall be entitled to provide specific items of information as items of information containing sensitive personal information in his case and that he requests that such information will not be presented for the inspection of the creditors.

(c) A creditor may inspect a report pursuant to sub-section (a) that the natural person submitted and the documents attached thereto and copy the said documents; if the Natural Person stated that certain particulars in the report he submitted include personal sensitive information in his case, the trustee will deliver such particulars for the inspection of the creditors only if he was convinced that this information is necessary for the creditors, after he took into consideration the infringement of privacy associated therewith, and afforded to the natural person an opportunity to present his case with respect to the communication of such information, and the trustee shall be entitled to provide only part of the information or stipulate the provision of such information on conditions.

(d) The Superintendent shall lay down instructions regarding the right of inspection under this section.

Application by the Attorney General to commence proceedings

118. The Attorney General may file in Court an application to commence proceedings if he found that there is public interest in the case; the provisions of this Part that apply to an application to commence proceedings that a creditor filed shall apply to such an application as said.

Chapter D: Interim relief until the issuance of an order to commence proceedings

Interim relief within the framework of an application by a creditor

119. (a) If an application by a creditor was filed, the Court may, at the request of a creditor or a natural person, issue an interim order ordering one or more of the

following, if it was convinced that there is prima facie proof that the conditions for issuance of an order to commence proceedings as stated in section 116 hold true:

(1) A prohibition on performing certain transactions, a particular type of transactions or the stipulation on the performance of such transactions on the approval by the Court;

(2) A prohibition to pay the past debts of the natural person and stay of proceedings against the natural person; if an interim relief was issued as said –

(a) It will appoint a temporary trustee for the purpose of protecting the assets of the Natural Person; the provisions of section 125(b) shall apply to the appointment of a trustee as said; the Court will define the function and authorities of the temporary trustee;

(b) The date in which the interim relief was issued, with respect to the insolvency proceedings of the Natural Person, shall be deemed as the issuance date of the order to commence proceedings;

(c) The restrictions laid down in Article A: Restrictions, in Chapter G, shall apply to the Natural Person; the Court shall be entitled to order that one or more restriction will not apply if it found that it is unnecessary for the purpose of protecting the creditors or for the purpose of avoiding an increase in the debts of the Natural Person.

(b) The provisions of sections 20(b) to (d) and 21 shall apply to an interim relief, *mutatis mutandis*.

Interim stay of a judicial proceeding

120. (a) If an application to commence proceedings was filed with respect to a natural person and concurrently a proceeding against the natural person is pending in Court or in the Labor Court, the natural person or a creditor may request from the Court or the Labor Court in which the proceeding is heard to stay the proceeding until a decision in the application is made.

(b) In its decision regarding a stay of proceedings under this section, the Court or the Labor Court will consider the following, *inter alia* –

(1) The harm caused to the applicant and to the other interested parties in the proceeding if no interim relief is granted, compared

to the harm caused to the respondent and to the other interested parties in the proceeding of the interim relief is granted;

(2) If the application was filed in good faith, and if the granting of the relief is just and proper under the circumstances of the case, and does not cause harm in a level exceeding the necessary level.

(c) The provisions of this section shall not apply to criminal proceedings and administrative proceedings.

Chapter E: Effects of an order to commence proceedings

Effects of an order to
commence proceedings

121. Following issuance of an order to commence proceedings –

(1) The assets of the insolvency estate shall be made available solely for the payment of the past debts of the natural person and the expenses of the insolvency proceedings;

(2) The past debts of the natural person from the assets of the insolvency estate shall be paid solely in accordance with the provisions set forth in this Law;

(3) The proceedings against the natural person will be stayed, pursuant to the provisions of Chapter E: Stay of proceedings, in Part B, *mutatis mutandis*, and if restrictions were imposed on the natural person within the framework of collection proceedings – the restrictions are void;

(4) No warrant of imprisonment for the performance of imprisonment shall be issued in lieu of a fine that was imposed on the natural person, pursuant to section 71 of the Penal Law or pursuant to section 129A of the Criminal Procedure Law [Consolidated Version] 5742-1982;

(5) The Superintendent will appoint a trustee who will implement the insolvency proceedings of the natural person, pursuant to the provisions of Chapter F: he appointment, duties and authorities of the trustee;

(6) An interim period shall commence until the issuance of an order for financial rehabilitation for the natural person, as stated in Chapter G: Interim period – from the issuance of an order to commence proceedings until the issuance of a financial rehabilitation order, during which –

(a) The restrictions laid down in Article A: Restrictions, of Chapter G will apply to the natural person, pursuant to the provisions of the said Article;

(b) The trustee will conduct an inspection of the financial status of the Natural Person, and the circumstances that resulted in his status, pursuant to the provisions of B: Examination of the financial status of the natural person, in Chapter G.

The Superintendent of Insolvency Proceedings

122. After issuance of an order to commence proceedings, whether following the request of a natural person and whether following the request of a creditor, the Superintendent shall become the Superintendent of Insolvency Proceedings with respect to the natural person.

Restriction on obtaining credit by a natural person

123. (a) A natural person in respect of whom an order to commence proceedings was issued shall not engage in a transaction or perform actions associated with obtaining credit, as of the issuance date of the order and until the expiration of the insolvency proceedings however only after obtaining the approval of the Superintendent; the approval of the Superintendent may be granted for a specific matter or a specific transaction or action.

(b) The Superintendent will lay down instructions regarding the expenses that are necessary for the livelihood of the natural person in respect of which the natural person may engage in a transaction or perform actions for the purpose of obtaining credit, for the sums set out by the Superintendent, without obtaining the approval of the Superintendent.

Mention of insolvency proceedings

124. (a) The trustee or any person acting on his behalf will state in each document that the trustee issues within the framework of his function that the natural person is under insolvency proceedings.

(b) A natural person in respect of whom an order to commence proceedings was issued and who engages in a transaction, or who performs an action that require the provision of credit will act in such manner as said as of the issuance date of the order and until the expiration of the insolvency proceedings by using the name as stated in the order and will state that he is insolvent; the Superintendent shall be entitled to define types of transactions in respect of which the duty to specify the insolvency proceedings will not apply, for the amounts that the Superintendent will decide.

Chapter F: The appointment, duties and authorities of the trustee

Article A: Appointment of the trustee

Appointment of a trustee

125. (a) The Superintendent will appoint a trustee for the purpose of implementing the insolvency proceedings after issuance of the order to commence proceedings.

(b) The trustee will be appointed out of the list of trustees that was formulated pursuant to section 126, based on equal criteria that the Superintendent will formulate and publish in his internet website.

(c) The Superintendent will not appoint as a trustee whoever might be in a conflict of interests between his function as a trustee and any other of his personal matters or functions, or the relative of another person with whom he maintains personal or financial connections, including a conflict of interests stemming from an undertaking that the trustee gave to an interested party or to the representative of an interested party in the insolvency proceedings.

(d) The Superintendent may appoint a number of trustees if he found that this is necessary for special reasons that will be noted and relating to the complexity of the proceeding.

(e) The Superintendent will publish each quarter, in its internet website, the number of cases assigned to each trustee for his care in the previous quarter.

List of trustees

126. (a) The list of trustees will be formulated by a public committee that the Minister will appoint whose members are the following:

- (1) A retired judge of the District Court who will act as the chairman;
- (2) The Superintendent and his representatives, or two representatives on behalf of the Superintendent;
- (3) The Director of the Enforcement and Collection Authority or his representative;
- (4) A representative on behalf of the Israel Bar Association;
- (5) The Director of the Legal Aid Office or his representative.

(b) Whoever is a member of the Israel Bar Association or whoever holds a license, pursuant to the Accountants Law 5715-1955 and has experience of five years of work in his profession, or has special competency or proven experience in the management of corporations under insolvency proceedings is eligible to be listed in the list of trustees, on the condition that a person who was convicted of an offense that, on the grounds of its essence, severity or circumstances, renders him ineligible, in the opinion of the Superintendent, to be listed in the List of Trustees.

(c) The Minister, with the recommendation of the Superintendent and the approval of the Constitution Committee, shall lay down instructions regarding the formulation of the List of Trustees pursuant to this section, and with respect to the following matters, *inter alia*:

(1) Additional terms of eligibility that are required in order to be included in the list or limitations with respect to such inclusion as said, and in this regard shall be entitled to demand professional training or passing a professional test, and the Minister shall be entitled to lay down different conditions of eligibility for different types of insolvency proceedings based on their scope and complexity;

(2) The work procedures of the Committee, including instructions regarding the publication and amendment of the list, including removal of names therefrom.

Security

127. The trustee will deposit a security or will take out insurance for the purpose of providing insurance coverage for his liability in the performance of his function, in the manner ordered by the Superintendent.

Trustee's fees

128. (a) The Minister, with the approval of the Constitution Committee, may lay down instructions regarding the fees and expenses of the trustee, including the procedure for determining such expenses.

(b) The Minister, with the approval of the Minister of Finance and the Constitution Committee, shall be entitled to order that part of the trustee's fees will be paid from the treasury of the State.

Article B: Duties and authorities of the trustee

Subordination of the trustee and application for directions

129. (a) The trustee will act on behalf of the Superintendent and will be subject to his instructions and directions.

(b) The trustee may apply to the Superintendent and request directions in anything related to the performance of his function or the exercising of his authorities in matters relating to the provisions of sections 132, 137, 143, 147, 152(a), 153, 156(a), (b) and (e), 157(a) and (b), 159, 165(a), 169, 170(c), 172, 226, 239, 258(b), 260, 261 and 265(c) and the court and request directions on other matters.

(c) If the trustee filed an application for directions in Court pursuant to subsection (b), the trustee will send to the Superintendent a copy of the said application.

(d) If the application for directions from the Court pursuant to sub-section (b) affects the rights of a third party other than the natural person or the trustee, and does not concern a debt claim filed pursuant to Chapter A: Debt claims, in Part D, the application will be heard in Court if the Court found that all of the following hold true:

- (1) The inquiry of the matter within the framework of an application for directions is required for the purpose of performing the function of the trustee efficiently;
- (2) The matter does not require complex inquiry of facts;
- (3) The inquiry of the matter within the framework of an application for directions does not cause material harm in a procedural right of a party.

(e) The Court will not decide in a criminal proceeding or an administrative proceeding in an application for directions.

Duties of the trustee

130. (a) The duty of the trustee is to formulate the necessary factual grounds for the purpose of issuing a financial rehabilitation order for a natural person, administer the assets of the insolvency estate and act for the purpose of implementing the financial rehabilitation order, while protecting the dignity of the natural person and protecting the interests of the creditors.

(b) Within the framework of his duties the trustee will –

- (1) inspect the financial status of the natural person and the circumstances that resulted in his condition and will submit a report to the Superintendent about the same, pursuant to the provisions of Article B: Examination of the financial status of the natural person in Chapter G;
- (2) decide in the debt claims, pursuant to Chapter A: Debt claims, in Part D;
- (3) act for the purpose of collecting the assets of the insolvency estate and managing such assets, pursuant to Chapter C: Collection and management of the assets of the insolvency estate of Part D;
- (4) supervise the compliance of the natural person with the terms of the financial rehabilitation order, including the duty to make payments, as stated in section 168;
- (5) act for the purpose of realizing the assets of the insolvency estate, pursuant to Chapter D: Realization of the assets in the insolvency estate, of Part D, subject to the provisions of section 159 and in accordance with the instructions set forth in the financial rehabilitation order;

(6) act for the purpose of distributing the assets in the insolvency estate between the creditors, pursuant to Chapter E: Distribution of assets in the insolvency estate in Part D and subject to the provisions of section 159.

Conferring authorities of a natural person regarding the insolvency estate on the trustee

131. For the purpose of performing his duties the trustee is authorized to perform any action in the assets in the insolvency estate that the natural person was entitled to perform, and as of the appointment date of the trustee the natural person is not authorized to perform such actions as said, however only after obtaining the prior approval of the trustee; such approval as said may be provided in advance for a specific type of actions.

Authorities the exercise of which requires the approval of the Superintendent

132. (a) The trustee will exercise the following authorities only after obtaining the approval of the Superintendent:

- (1) A claim or defense in a legal proceeding in the name of the natural person;
- (2) The employment of a person who will assist the trustee in conducting insolvency proceedings;
- (3) The payment of a past debts to a specific class of creditors;
- (4) Settlement with a creditor or a debtor of the natural person regarding the amount of the debt and the manner of its payment, that has a material effect on the scope of assets in the insolvency estate;
- (5) Any other authority that requires the approval of the Superintendent under this Law or following the instructions of the Superintendent.

(b) The approval of the Superintendent as stated in sub-section (a) may be granted in general or ad-hoc.

Demanding assets and documents of a natural person

133. (a) The trustee may demand from each person to deliver him an asset or a document in his possession in connection with the insolvency proceeding and that, in the opinion of the trustee, the natural person is entitled to receive, and the said person will deliver the said items to the trustee on the date the trustee stated in his demand.

(b) If a person had a right of lien in an asset or a document as stated in sub-section (a), the asset or the document will be delivered, if the Court ordered such delivery as said pursuant to section 254.

(c) A dispute regarding the right of a natural person in an asset or a document that the trustee demanded to receive will be heard in accordance with the provisions of section 129(d).

- Inspection of assets of a natural person held by another
134. If an asset of a natural person is held by another person, the trustee shall be entitled to inspect the asset after he notified the said person about his intention to act in such manner as said.
- Demanding information
135. For the purpose of filling his duties the trustee may demand information pursuant to the provisions of sections 146 and 180.
- Protection of confidentiality
136. The trustee and any person acting on his behalf will not use the information that reached him while performing his function and in consequence of performing his function and will not disclose it to another, however in the scope required for the purpose of filling his duties, and will protect the privacy of the natural person and of any other person to whom the information is related, or under a Court order or the instructions of the Superintendent pursuant to section 258(b) or 265(c).
- Trustee's reports
137. (a) The trustee will submit to the Superintendent a periodic report regarding the assets in the insolvency estate, the debt claims that were approved and pending debt claims, the actions that the trustee performed within the framework his duties and the compliance of the natural person with the terms of the financial rehabilitation order.
- (b) The periodic report will be submitted once a year as a minimum or more frequently, if the Superintendent gave an instruction to that effect; the first periodic report will be submitted in six months as of the filing date of the report containing the findings of the inspection conducted by the trustee, pursuant to section 153.
- (c) The Superintendent shall be entitled to demand from the trustee to submit to him an immediate report regarding a specific event concerning the insolvency proceedings.
- (d) Any interested party in the insolvency proceedings may inspect and copy the trustee's reports.
- (e) When writing the report, the trustee will take into the consideration the privacy of the persons mentioned in the report.
- (f) The Superintendent will lay down instructions regarding the trustee's reports, including instructions regarding material events that mandate the submission of an immediate report, pursuant to sub-section (c), the manner of preparing the reports and the particulars included therein, including the protection of privacy of the persons mentioned in the reports and the right of inspection in the reports.

Cooperation with the trustee

138. (a) The natural person will assist the trustee and will cooperate with the trustee to the extent required for the purpose of filling his duties, and in this regard will sign the power of attorney and the documents, will deliver to the trustee any document in his possession relating to the insolvency proceeding and will perform any action required for the purpose of realizing the assets in the insolvency estate and their distribution among the creditors.

(b) The natural person will notify the trustee, at the earliest opportunity, regarding any change in any information relating to his financial status that he reported in accordance with this Part.

Application to the Court or to the Superintendent by a party aggrieved by the actions of the trustee

139. (a) A natural person who considers himself aggrieved or who might be aggrieved by the decision of the trustee or an action he performed or an action that the trustee intends to perform or an omission committed by the trustee shall be entitled to apply to the trustee and request to revoke or change the decision or the action or give any other instruction that he deems fit.

(b) Another person who considers himself aggrieved or who might be aggrieved as a result of a decision made by the trustee or an action he performed or an action that the trustee intends to perform or an omission of the trustee may apply to the Court and request the revocation or a change in the decision or the action or give any other instruction in the manner that the Court will see fit; a copy of the said application will be delivered to the Superintendent and to the natural person.

Early termination of trustee's appointment

140. (a) The Court may proactively terminate the appointment of a trustee, or terminate such appointment following a request made by the trustee, the Superintendent or an interested party in the insolvency proceedings, if it found that one of the following holds true:

- (1) The trustee does not perform his function properly;
- (2) The trustee is unable to perform his function regularly;
- (3) The trustee no longer satisfies any of the conditions that are required for his appointment.

(b) The decision of the Court regarding the termination of the trustee's appointment shall be made after the Court hears the position of the trustee regarding this matter and after the Court afforded to the trustee an opportunity to present his case.

(c) If the position of a trustee is vacated, the Superintendent will appoint another in his place, pursuant to the provisions of section 125.

- Termination of trustee's appointment
141. (a) If the trustee completed performing his duties, the trustee will submit to the Superintendent a concluding report of his activities.
- (b) If the Superintendent sees that the trustee completed performing his duties, he will order the termination of the trustee's appointment.

Chapter G: Interim period – from the issuance of an order to commence proceedings until the issuance of a financial rehabilitation order

Article A: Restrictions

- Restrictions on a natural person during the interim period
142. The following restrictions will apply to a natural person during the period as of the issuance of an order to commence proceedings for a natural person and until the issuance of a financial rehabilitation order (in this Part – the interim period):

(1) Restriction on receipt or holding of an Israeli passport or a travel document (Laissez-passer) pursuant to the provisions of the Passports Law 5712-1952 and the extension of their effect, provided that they are valid for the purpose of returning to Israel;

(2) Prohibition on the departure of the natural person from the country;

(3) Restriction as a special limited customer, as meant by this term in the Dishonored Checks Law 5741-1981;

(Amendment no. 1)
5779-2019

(4) (a) The restriction on the natural person on the use, whether by himself and whether by another, of a debit card, except a bank card or an immediate debit card that can be used for the purpose of withdrawing sums or performing transactions only against credit balance; for the purpose of this matter –

“Debit card” and “bank card” – as meant by these terms in the Banking (Licensing) Law 5741-1981;

“Immediate debit card” – as defined in the Execution Law;

(Amendment no. 1)
5779-2019

(b) The said restriction shall be deemed as the termination of a contract for payment services, as defined in the Payment Services Law, 5779-2019 with respect to the issuance of a debit card in the notice of the natural person, and the following shall be inserted in its final part: “notwithstanding the provisions of section 6(a)(1) of the said Law, with the exception of provisions in the contract stipulating that the customer owes any payment as a result of the mere shortening of the period of use of the debit card; a notice regarding the applicability of the restriction as said shall be delivered to the issuer in the manner prescribed by the Minister, and the date of receipt of the notice shall be deemed as the termination date of the contract;

(5) Restriction on the natural person to establish or participate in the establishment of a new corporation, if the trustee found that under the circumstances of the case there is a concern that an establishment or the participation in the establishment as said will result in harm to the creditors or to a third party.

Removal of restrictions 143. (a) The Superintendent may, proactively or at the request of the trustee or the natural person, and after he afforded to the creditors an opportunity to present their case, remove one or more of the restrictions as stated in section 142, or order that the restriction will be applied only in part (in this section – removal of the restriction), if he found that this is justified under the circumstances of the case.

(b) The Superintendent shall be entitled to stipulate the Removal of the Restriction under the conditions the Superintendent will prescribe, including the depositing of a guarantee.

(c) Notwithstanding the provisions of sub-section (a), if the Superintendent is of the opinion that the immediate removal of the restriction is necessary, he may remove the restriction for a period the Superintendent deems fit, even without affording to the creditors an opportunity to present their case; if the Superintendent removed the restriction pursuant to this sub-section, he will notify the creditors about the same at the earliest opportunity.

Article B: Review of the financial status of the natural person

Reviewing the financial position of a natural person 144. After his appointment the trustee will start a comprehensive review of the financial status of the natural person, including in connection with his income, expenses, debts, liabilities and assets, including assets that the natural person held in the past, concerning claims and collection proceedings that the natural person conducts or that are conducted against him, and the circumstances that resulted in his financial status, and all in accordance with the provisions set forth in this Article (in this Article – financial status review).

Inspection of a report submitted by the natural person 145. Within the framework of the financial status review, the trustee will inspect the report that the natural person submitted, pursuant to section 104(b)(2) or 117.

Demand for information by the trustee 146. For the purpose of conducting the financial status review of the natural person, and to the extent required for the purpose of this matter, the trustee may demand from any entity listed in section 104(b)(3) that holds information about the natural person as stated in that section to provide such information to the trustee.

Demand for information by the Superintendent 147. If the Superintendent found, proactively or following the request of the trustee, that the information held by the trustee is insufficient for the purpose of completing

the financial status review of the natural person, he may, if he deems that the information is required for the purpose of completing the review and in the scope required for the purpose of this matter, demand from an entity listed in column A in Part B of the First Schedule, to deliver to the Superintendent information according to the description provided in column B by its side.

Communication of information to the Superintendent from the Execution System

148. The Director of the Execution System will deliver to the Superintendent the entire information related to the natural person that the Execution Offices hold; for that purpose, the Superintendent will notify the Director of the Execution System regarding the issuance of an order to commence proceedings with respect to the natural person.

Communication of information from the Superintendent to the trustee

149. The Superintendent will deliver to the trustee information he received in accordance with this Article if he was convinced that the information is necessary for the purpose of reviewing the financial status of the natural person.

Communication of information according to the instructions of the Court

150. (a) Notwithstanding the provisions of any law, the Court may, on application of the trustee, order a banking corporation or the Israeli Tax Authority to provide information as stated hereunder, if it was convinced that the communication of such information as said is required for the purpose of helping the trustee in the inquiry of the financial status of the natural person, and that the benefit in the communication of such information as said outweighs the infringement of the privacy of another person:

(1) With respect to a banking corporation – information concerning the affairs of the natural person, in addition to the information that may be obtained pursuant to sections 146 and 147 as stated in the order;

(2) With respect to the Tax Authority – information as follows:

(a) Information regarding the assets of the natural person;

(b) Information regarding the amount of income of the spouse of the natural person and any other particular in the report that the spouse submitted with respect to the period in which he was the spouse of the natural person and lived together with him.

(b) The Court will order the communication of information from the Tax Authority pursuant to this section only in special cases and for reasons that will be noted and after it found that the trustee was unable to obtain the necessary information in another manner and after exercising reasonable effort, and that the communication of such information as said does not reveal the sources of information of the Tax Authority or the methods of collection of such information as said, or harm an investigation conducted by the Tax Authority.

(c) The Court may hold the hearing of the application to obtain information from the Tax Authority in chambers, and in special cases – even without the presence of the trustee, and order that the information will be provided in a manner that will not reveal its sources.

(d) Information that the Court ordered to provide pursuant to this section will be delivered solely to the trustee, in the manner as ordered by the Court, unless the banking corporation or the Tax Authority agreed to provide such information also to the creditors or to a natural person.

(e) Notwithstanding the provisions of sub-section (d), the Court may order that the information will be delivered to the Superintendent only if it is of the opinion that this is justified for the purpose of protecting the privacy of the natural person.

(f) The Minister and the Minister of Finance shall be entitled to lay down instructions regarding the manners of communication of information from a banking corporation or from the Tax Authority in accordance with this section; such instructions regarding a banking corporation as said will be laid down in consultation with the Governor of the Central Bank of Israel; if no regulations were enacted – the Court will order on the manner of communication of such information.

(g) The Court will give instructions in accordance with this section after it afforded to the banking corporation or to the Tax Authority, as the case may be, an opportunity to present their case before it.

Duty to communicate information

151. Notwithstanding the provisions of any law, whoever was requested to provide information to the trustee or to the Superintendent pursuant to sections 146, 147 and 148, shall be obligated to provide such information to him.

Inquiry authorities held by the trustee

152. (a) The trustee will summon the natural person to an inquiry for the purpose of reviewing his financial status, unless the Superintendent is of the opinion that there are special circumstances for which such inquiry is not necessary; the Superintendent shall be entitled to conduct the inquiry in person, or by the civil servants subordinated to him, if he thought that there are special circumstances justifying such action.

(b) The summons will specify the date and place of the inquiry, and the rights of the natural person, including his right to be represented by an attorney and his rights pursuant to section 47 of the Evidence Ordinance [New Version], 5731-1971.

(c) An inquiry in accordance with this section will be documented in a protocol that will be provided to the natural person however the trustee may, if he found that this is necessary for the inquiry, deliver the protocol to the natural person only at the end of the inquiry, or at the end of all inquiries conducted pursuant to section 281 and concerning the insolvency proceeding with respect to the natural person.

(d) The Minister, with the approval of the Constitution Committee, will lay down instructions regarding the manner of conducting the inquiry under this section, including instructions regarding the dates of the inquiry, the manner of summons, its place and the manner of its documentation.

(e) The Superintendent will supervise the inquiry conducted by the trustees, by conducting periodic examinations, *inter alia*.

(f) If the trustee is of the opinion that for the purpose of conducting the financial status of a natural person it is necessary to conduct an investigation in the manner set out in section 281, he may apply to the court and request to conduct an investigation in accordance with the provisions of the said section.

(g) The natural person shall be entitled to apply to the Superintendent and request an investigation of the conduct of the trustee in an inquiry conducted under section 274.

Inquiry findings report

153. (a) After completing the review of the financial status of the natural person, and no later than nine months as of the appointment date of the trustee, the trustee will submit to the Superintendent a report containing his findings regarding the financial status of the natural person and the circumstances that led to his status (in this Chapter – the inquiry findings report).

(b) The Superintendent shall be entitled to extend the date for submission of the Inquiry Findings Report if he is of the opinion that this is justified as a result of the complexity of the review or as a result of lack of cooperation on behalf of the natural person, including as a result of failure to submit a report by the natural person, pursuant to section 117.

(c) The Inquiry Findings Report will refer to the following matters, *inter alia*:

- (1) The profession and education of the natural person;
- (2) The assets of the insolvency estate and, to the extent possible, a proposal regarding the manners of their realization;

- (3) Actions that the trustee performed during the period of conducting the review of the financial status of the natural person;
- (4) The debt claims that the trustee approved, and pending debt claims;
- (5) The actions of the natural person and the circumstances that created the debts;
- (6) The conduct of the natural person during the period in which his financial status was reviewed;
- (7) Actions that the natural person performed and that appear to be as actions for the preference of creditors, the removal of assets from the insolvency estate or the securing of assets, as meant by this term in Article B: Avoiding transactions that diminish the insolvency estate, in Chapter B in Part D;
- (8) If the natural person has a business – a recommendation regarding the continuation of operation of the business, pursuant to section 157.

(d) The trustee will deliver a copy of the report to the natural person and will notify the creditors regarding the submission of such a report; each creditor shall be entitled to inspect the report.

(e) The natural person and the creditors shall be entitled to deliver to the Superintendent their response to the report in 30 days as of the date of its delivery.

(f) The Minister will lay down instructions regarding the inquiry findings report, including with respect to the manner of preparing the report and the particulars contained therein, and with respect to the notice to the creditors on the submission of the report and the right of inspection therein.

Article C: Proposal by the Superintendent for a financial rehabilitation order and hearing thereof

The Superintendent's
proposal

154. (a) The Superintendent will submit to the Court, in 60 days as of the date the trustee delivered to the Superintendent the inquiry findings report, a proposed plan for the financial rehabilitation of the natural person (in this Article – the Superintendent's Proposal).

(b) The Superintendent's Proposal will refer to all matters that should be included in the financial rehabilitation order pursuant to Chapter H: Financial rehabilitation order, and the findings based on which such a proposal was formulated, including –

- (1) The findings in accordance with the Inquiry Findings Report;

(2) Fulfillment of conditions for which it is necessary to impose on the natural person the duty to pay payments pursuant to Article B: Duty to pay, in Chapter H or grant him an immediate discharge pursuant to Article C: Immediate discharge of the said Chapter;

(3) The fulfillment of conditions for which it is possible to extend or shorten the period of the payments pursuant to section 163.

(c) The Superintendent will deliver to the natural person his proposal, notify the creditors regarding the submission of the proposal and will make it available for their inspection; the Superintendent will lay down instructions regarding the right of inspection granted under this sub-section.

Response of the natural person and the creditors to the Superintendent's proposal

155. The natural person and the creditors shall be entitled to submit to the Court their response to the Superintendent's Proposal on the date and in the manner prescribed by the Minister.

Article D: Miscellaneous provisions regarding the interim period

Payment of subsistence allowances during the interim period

156. (a) After issuance of the financial rehabilitation order, the Superintendent will set the subsistence allowances, as defined in section 160, that will be paid to the natural person from time to time during the interim period, from his income from work or from any other source.

(b) The Superintendent shall be entitled to order that the income of the natural person from work or from any other source from which the subsistence allowances are paid, in whole or in part, will not be part of the assets of the insolvency estate and that the natural person will keep in his possession the subsistence allowances and will transfer to the trustee the balance in periodic payments in the manner ordered by the Superintendent.

(c) The provisions of this section shall be without prejudice to the provisions of sections 303 and 311 of the National Insurance Institute Law or any provision in another enactment that applies the said sections or that lays down a similar arrangement to the arrangement set out therein.

(d) The Court may, after it afforded to the creditors an opportunity to present their case, approve that the trustee will transfer to the natural person additional amounts from the assets of the insolvency estate that the natural person requires or that anyone depending on the natural person requires, if he found that this is justified under the circumstances of the case.

(e) The Superintendent may, proactively or at the request of the natural person or a creditor, change the amount of the subsistence allowances and the manner of their payment if he found that the circumstances changes or that new facts justifying such action were discovered.

Operation of the business of a natural person during the interim period

157. (a) The Superintendent will order the operation of the business of a natural person during the interim period, at the request of the natural person or with his approval, if he was convinced that the operation of the business will not affect the financial rehabilitation of the natural person or his creditors, and may stipulate the operation of the business on conditions and set restrictions on its operation for the purpose of protecting the interests of creditors.

(b) The Superintendent shall be entitled to order the operation of the business of the natural person during the interim period by the trustee or anyone acting on his behalf, even without obtaining the approval of the natural person, if he was convinced that the operation will maximize the rate of the debt paid to the creditors.

(c) The provisions of Article B: Operation of the corporation, in Chapter G in Part B will apply to the operation of the business of the natural person, *mutatis mutandis*.

Right of the trustee to rescind an existing contract without grounds for its rescission

158. Without prejudice to the provisions of section 157(c), the trustee shall have the authority to rescind an existing contract, as defined in section 66, to which the natural person is a party, pursuant to the provisions of section 67, and the provisions of sections 69, 70, 73 and 74(a) shall apply for the purpose of this matter, *mutatis mutandis*.

Realization of assets of the insolvency estate and their distribution with the approval of the Superintendent

159. During the interim period the trustee will not realize an asset in the insolvency estate and will not act for the purpose of distributing the assets as said however only after obtaining the approval of the Superintendent.

Chapter H: Financial rehabilitation order

Article A: Content of the order

Definitions – Chapter H

160. In this Chapter –

The “subsistence allowances” of the natural person – the amount that the natural person and his dependents require for the basic subsistence allowances to live in dignity and taking into consideration the income of his spouse and his children

depending on him; the subsistence allowances will be calculated based on the rules for living in dignity prescribed by the Minister pursuant to section 162(b) and their adjustment to the personal circumstances of the natural person;

“Earning capacity” of the natural person – the earning capacity of the natural person from work and from any other source, calculated based on the rules prescribed by the Minister pursuant to section 162(b) and its adjustment to the personal circumstances of the natural person;

“Duty to pay” – the duty to make payments imposed on the natural person pursuant to section 162(a);

“Payments period” – the period in which the payments duty will apply, pursuant to section 163.

Financial rehabilitation
order

161. (a) After submitting the Superintendent’s proposal pursuant to section 154, and after holding a hearing regarding his proposal, the Court will present, at the earliest opportunity and in the financial rehabilitation order that the Court will issue, a plan for the payment of the debts of the natural person and his financial rehabilitation.

(b) The Court will lay down instructions with respect to the following matters, *inter alia*, in the financial rehabilitation order:

(1) The payments duty prescribed under Article B: Duty to pay, and in this regard instructions regarding the amounts of the payments and the period of the payments; however, if the natural person satisfies the conditions for granting immediate discharge pursuant to Article C: Immediate discharge, the Court will order in the financial rehabilitation order on an immediate discharge of the natural person;

(2) The assets included in the assets of the insolvency estate, pursuant to the provisions of section 164, and in an immediate discharge – pursuant to the provisions of section 167(c);

(3) The manner of realizing the assets of the insolvency estate;

(4) Restrictions as stated in Article A: Restrictions in Chapter G or a part thereof, that will apply to the natural person for the period as ordered by the Court, if the Court found that they are necessary for the purpose of

protecting the creditors or for the purpose of preventing from the natural person to increase his debts; for the purpose of this matter it shall be presumed that the restrictions are necessary if any of the conditions for the extension of the payments period as stated in section 163(c)(1) to (3) holds true with respect to the debtor;

(5) Training for proper financial conduct that the natural person will undergo, if the Court found that the circumstances that resulted in the insolvency indicate that such a training will assist in his financial rehabilitation; the Minister, with the approval of the Constitution Committee, will lay down instructions regarding the performance of such training as said;

(6) The debts of the natural person in respect of which the discharge will not apply, pursuant to the provisions of section 175.

Article B: Duty to pay

Duty to pay and the amount of payments

162. (a) The Court will impose on the natural person a duty to pay to the insolvency estate, in accordance with the following provisions:

(1) The amount of the payments will be set based on the earning capacity of the natural person after the subsistence allowances were subtracted therefrom;

(2) Notwithstanding the provisions of paragraph (1), if the natural person does not owe a punitive payment that is not dischargeable pursuant to section 175(a)(1), the Court may order that the amount of the payments shall be set based on a rate of the earning capacity of the natural person, even if the amount remaining in the possession of the natural person exceeds the subsistence allowances, if it found that this will encourage the natural person to increase his income;

(3) The provisions of this section shall be without prejudice to the provisions of sections 303 and 311 of the National Insurance Institute Law or any other provision in any other enactment that applies the said sections or that lays down an arrangement that is similar to the arrangement set out therein.

(b) The Minister, with the approval of the Constitution Committee, will lay down instructions in connection with the following –

- (1) The manner of calculation of the subsistence allowances (in this Part – rules for dignified living);
- (2) The manner of calculating the earning capacity of the natural person.

Payments period

163. (a) The payments period will be three years as of the issuance date of the financial rehabilitation order.

(b) Notwithstanding the provisions of sub-section (a), the Court may prescribe, in a financial rehabilitation order and for reasons that will be noted, a payments period shorter than three years, if there are personal circumstances that are relevant to the natural person and that justify such action.

(c) Notwithstanding the provisions of sub-section (a), the Court may prescribe, in a financial rehabilitation order, a payments period longer than three years, if it found that one of the following holds true:

(1) The natural person performed one of the following in the insolvency proceedings:

- (a) acted in bad faith, for the purpose of abusing the proceedings;
- (b) did not cooperate with the trustee or the Superintendent;
- (c) breached the restrictions imposed on him in a manner that could have harmed the insolvency proceeding;

(2) The natural person has a debt in respect of which one of the following holds true:

- (a) It was created as a result of an undertaking or an engagement in a transaction for a substantial scope that the Corporation made at the time he knew or had to know that it was highly probable that he would not be able to perform his obligations;
- (b) It was created as a result of severe neglect in conducting the financial affairs of the natural person, that was made in bad faith;
- (c) It stemmed from the duty to pay damages, pursuant to the provisions of section 77 of the Penal Law;

(3) The natural person performed an action as stated in sections 219 to 221, for the purpose of preferring a creditor over other creditors, to diminish assets from the insolvency estate or concealing assets;

(4) Another financial rehabilitation order was issued against the natural person in the seven years that preceded the commencement date of the insolvency proceedings.

(d) If the Court finds that any of the conditions for the extension of the payments period as said in sub-section (c)(1) to (3) holds true with respect to an act of the natural person that was performed under aggravating circumstances or in bad faith, he may set a payments period that is not limited in time.

(e) If the Court finds that there are special and extraordinary financial circumstances that hold true with respect to the natural person and for which it will be unjust to set a payments period of three years only, and that this period does not result in the proper balance between the right of the creditors to pay their debt and the need for the financial rehabilitation of the natural person, the Court may set a longer payments period even if the conditions in sub-section (c) do not hold true.

Inclusion of assets of a natural person in the insolvency estate during the payments period

164. (a) Any asset that is provided to the natural person during the payments period will be included in the assets of the insolvency estate, except for an asset as stated in section 217.

(b) Notwithstanding the provisions of sub-section (a), the income of the natural person from work or from any other source based on which the payments were set out in section 162(a) shall not be deemed as part of the assets of the insolvency estate.

(c) The Court may order that certain assets will be included in the insolvency estate even if such assets are provided to the natural person after expiration of the payments period.

Transfer of additional sums or assets to a natural person

165. (a) The Superintendent shall be entitled to approve to the trustee to permit to the natural person, in addition to the subsistence allowances as stated in section 162(a)(1), to keep additional amounts out of the income of the natural person from work or from any other source, that the natural person or his dependents require, if it found that this is justified under the circumstances of the case.

(b) The Court may, after it afforded to the creditors an opportunity to present their case, approve to the trustee to transfer to the natural person amounts or assets out of the assets in the insolvency estate if the natural person or his dependents require them and the Court found that this is justified under the circumstances of the case.

Transfer of regular
income directly to the
trustee

166. (a) If the natural person did not transfer any of the payments on time, the Court may, on application of the trustee, order to whoever pays to the natural person the income from which the natural person is required to make the payments, to transfer such income as said directly to the trustee during the payments period.

(b) If the Court ordered in the manner set out in sub-section (a), the trustee will transfer to the insolvency estate the payments in accordance with the instructions set forth in the financial rehabilitation order and will transfer the balance to the natural person; the provisions of this section shall be without prejudice to the provisions of sections 303 and 311 of the National Insurance Institute Law or a provision in another enactment that applies the said sections or that lays down an arrangement similar to the arrangement set out therein.

Article C: Immediate discharge

Immediate discharge

167. (a) The Court will not impose a duty to pay on a natural person whose earning capacity does not exceed the amount of subsistence allowances, and will grant him a discharge as stated in Chapter I: Immediate discharge.

(b) Notwithstanding the provisions of sub-section (a), no immediate discharge shall be granted to a natural person in respect of whom any of the conditions for which it is possible to extend the payments period pursuant to section 163(c) holds true, however only upon the existence of special circumstances justifying such action.

(c) If the Court granted immediate discharge to a natural person, the Court may order that the entire assets that will be provided to the natural person during the period as ordered and that will not exceed a period of three years as of the issuance date of the financial rehabilitation order or part of the assets as said, will be included in the assets of the insolvency estate, subject to the restrictions set out in section 164(a) and (b), and the Court shall be entitled, under extraordinary circumstances, to order as said with respect to specific assets also for a period exceeding three years.

Article D: Implementation of the financial rehabilitation order and its modification

- Implementation of the financial rehabilitation order
168. The trustee will act for the purpose of implementing the financial rehabilitation order and will assure that the natural person complies with the conditions set forth in this order.
- Temporary removal of restrictions
169. (a) The Superintendent may, on application of the trustee or the natural person, and after he afforded an opportunity to the creditors to present their case, remove temporarily one or more restrictions of the restrictions that were imposed in the financial rehabilitation order, or order that the restriction will be applied in part, if he found that this is justified under the circumstances of the case.
- (b) The Superintendent shall be entitled to stipulate the removal of the restriction on conditions laid down by the Superintendent, including the depositing of a guarantee.
- (c) Notwithstanding the provisions of sub-section (a), if the Superintendent is of the opinion that the removal of the restriction is required immediately, he may remove it also for a period of time decided at his discretion, even without affording to the creditors an opportunity to present their case; if the Superintendent removed a restriction in accordance with this sub-section, the Superintendent will notify about such action to the creditors at the earliest opportunity.
- Modification of the financial rehabilitation order
170. (a) The Court may, after it examined the position of the trustee and the Superintendent for the purpose of this matter, modify the financial rehabilitation order, if circumstances have changed or if new facts were found, and in this regard the Court may –
- (1) shorten the payments period, if it found that there are special circumstances that hold true with respect to the natural person, as stated in section 163(b);
- (2) extend the payments period for an additional period, or state that the payments period will not be limited in time, if it found that the conditions in section 163(c) or (d) hold true;
- (3) grant to the natural person immediate discharge if it found that the conditions in section 167 hold true.
- (b) Without prejudice to the provisions of sub-section (a), the Court may extend the payments period if it found that the natural person did not fulfill a condition in the financial rehabilitation order, and in this regard if the natural person failed to fulfill the duty to pay set out in the order.

(c) Notwithstanding the provisions in sub-section (a), an application to change the amount of payments as a result of change in circumstances or the discovery of new facts will be submitted to the Superintendent and the Superintendent shall have authority to decide in such an application.

(d) A natural person for whom a payments period was set will not convert such payments with a one-time payment or with higher payments paid over a period that is shorter than the payments period set out in the financial rehabilitation order, however only by way of filing in the Court an application to modify the order; the Court may approve such a modification as said only if it was proven to its satisfaction that the source for the payment is not from the assets of the insolvency estate.

(e) The Court and the Superintendent will decide pursuant to this section, after the creditors were afforded an opportunity to present their case.

Application to shorten the payments period

171. (a) If a payments period exceeding three years or an unlimited period was set for a natural person, the Court may, on application of the natural person, after three years as of the issuance date of the financial rehabilitation order, shorten the payments period, if it was convinced that the natural person cooperated fully and made a considerable effort to maximize the rate of his debts paid to the creditors.

(b) The Court will decide in an application that was filed pursuant to sub-section (a), after it afforded to the creditors an opportunity to present their case and after it considered the position of the trustee and the Superintendent for the purpose of this matter.

Concluding report of the trustee

172. (a) Three months prior to the expiration of the payments period, the trustee will submit to the Superintendent a concluding report regarding the compliance of the natural person with the terms set out in the financial rehabilitation order, including the duty to pay.

(b) The trustee will deliver a copy of the report to the natural person, and the report will be made available to the creditors in accordance with the instructions set forth by the Superintendent.

Extension of the payments period due to failure to comply with terms of financial rehabilitation order

173. (a) If the Superintendent found, after receiving the concluding report as stated in section 172, that the natural person failed to comply with the terms of the financial rehabilitation order and that this justifies their modification, the Superintendent will file in court, at the earliest opportunity and no later than the expiration date of the

payments period, an application to change the terms of the order as stated in section 170, and will deliver to the natural person and to the creditors a notice about the same.

(b) If the Superintendent filed in court an application to change the terms of the financial rehabilitation order pursuant to sub-section (a), the payments period will be extended until the court gives its decision in the application, at the earliest opportunity.

(c) If the Court dismissed the application of the Superintendent that was filed pursuant to the provisions of sub-section (a), it will order to the trustee to return to the natural person the payments and the assets that were transferred to the insolvency estate during the extension period pursuant to sub-section (b), unless it found that it is justified to avoid such return as said under the circumstances of the case.

Chapter I: Discharge

Discharge

174. (a) Upon expiration of the payments period, and if a private person was granted immediate discharge pursuant to section 167 – after the issuance of the financial rehabilitation order the natural person shall be solely exempt from the past debts that cannot be paid from the assets of the insolvency estate.

(b) The discharge will not –

(1) diminish from the authorities of the trustee with respect to the assets of the insolvency estate, in the manner conferred on the trustee pursuant to section 131;

(2) Diminish from the duty of the natural person to help and cooperate with the trustee, as stated in section 138, and comply with the terms of the financial rehabilitation order that apply even after the discharge.

(c) The Superintendent will provide to the natural person confirmation regarding the discharge that was granted as said.

Debts excluded from discharge

175. (a) The discharge will not apply to the following past debts:

(1) Punitive payment;

(2) A debt that was created fraudulently or stemming from an offense of theft or a sex offense or gross violence, as defined in the Rights of victims of Crimes Law 5761-2001;

(3) Alimony debt whose liability is determined based on a judgment.

(b) Notwithstanding the provisions of sub-section (a), the Court may, under extraordinary circumstances that justify such action, order that the discharge will apply to the following past debts, in whole or in part, and may stipulate the application of the discharge on conditions as said:

(1) Interest, fine or any other payment as a result of failure to make timely payment of punitive payments that were added or that were imposed during the period that preceded the date of issuance of the order to commence proceedings;

(2) An alimony debt whose liability is determined based on a judgment.

(c) In addition to the said in sub-section (a)(2), the Court may order that the discharge will not apply to a past debt stemming from the duty to pay damages pursuant to section 77 of the Penal Law, if it found that this is justified in light of the essence of the offense for which the damages were imposed, its severity of circumstances.

Revocation of discharge

176. (a) The Court may, at any time, order that the discharge is revoked retroactively and order a modification of the financial rehabilitation order, including an extension of the payments period, if one of the following holds true:

(1) New facts were discovered, and if the Court had known such facts prior to the discharge date these facts would have caused an extension of the payments period pursuant to the provisions of section 163(c) to (e);

(2) The natural person did not assist or cooperate with the trustee as stated in section 174(b)(2) or breached, after the discharge date, a material term in the terms of the financial rehabilitation order, as stated in the said section.

(b) The revocation of a discharge shall be without prejudice to the effect of a sale, transfer, payment, or any other legal action that were lawfully executed after the date of the discharge and prior to its revocation.

Chapter J: Provisions regarding a natural person who died

A natural person who died in a state of insolvency

177. (a) If a natural person died in a state of insolvency and no order to commence proceedings was issued with respect to him, the provisions of this section shall apply to his estate.

(b) The administrator shall be entitled to file to the Superintendent an application to administer the estate in accordance with the provisions of this section (in this section – Application for Administration the Estate in an Insolvency Proceeding) if the conditions for the filing of an application by a natural person pursuant to sections 104(a) or 186 were satisfied.

(c) The creditor of a natural person who died shall be entitled to file in court an Application for Administration the Estate in an Insolvency Proceeding if the conditions for the filing of an application by a creditor pursuant to section 109 hold true.

(d) The provisions of Chapter B: Order to commence proceedings, and Chapter C: Order to commence proceedings on application of a creditor or the Attorney General shall apply to the Application for Administration the Estate in an Insolvency Proceeding with respect to the application of a natural person whose total debts exceed the amount of NIS 149,559.6, *mutatis mutandis*.

(e) If the Superintendent or the Court, as the case may be, approved the management of the estate in an insolvency proceeding, following an application filed in accordance with the provisions of sub-sections (b) or (c), the provisions under this Law that apply to an order to commence proceedings that was issued with respect to a corporation whose winding-up was ordered by the court will apply, *mutatis mutandis* and subject to the following provisions:

- (1) The Superintendent shall be responsible for conducting the proceedings as if an order to commence proceedings was issued with respect to a natural person;
- (2) The Superintendent shall be entitled to appoint the administrator as a trustee;
- (3) A pending proceeding in a court or a religious tribunal regarding the administration of the estate will become part of the insolvency proceeding.

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A natural person who died after issuance of an order to commence proceedings

178. If a natural person died after an order to commence proceedings was issued against him, the insolvency proceedings will continue in accordance with the provisions of section 177(e).

Allowance to a person entitled to alimony

Chapter K: Miscellaneous provisions
179. (a) If a natural person owes an alimony debt according to a judgment and its payment date occurs after the issuance date of the order to commence proceedings, the following provisions will apply:

(1) After issuance of the order to commence proceedings, the Superintendent will order that the person entitled to the alimony will receive an amount allocated to him and paid to him from time to time from the income of the natural person from work or from any other source or from the assets in the insolvency estate, until the Court decides for the purpose of this matter; the amount that will be allocated will be in the amount that was paid to the person entitled to the alimony prior to the issuance of the order to commence proceedings, unless the Superintendent found that it is justified to reduce the said amount;

(2) Following his appointment, the trustee will apply to the Court and request from the Court to order that the person entitled to alimony will receive an amount that will be paid to him from time to time, from the income of the natural person from work or from any other source or from the assets in the insolvency estate, until the expiration of the payments period, and if the said person was granted immediate discharge – until the date the discharge was granted in the financial rehabilitation order.

(b) The Superintendent or the Court, as the case may be, may provide an allowance as stated in sub-section (a)(1) or (2) even if after the allowance the subsistence allowance that the natural person will have pursuant to section 156 or section 162(a)(1) will be less than the amount exempt from an attachment in accordance with the provision of the Wage Protection Law 5718-1958.

(c) An allowance pursuant to sub-section (a) shall be deemed as payment in accordance with a judgment.

Authorities to demand information and inquiry and authority to rescind an existing contract after the interim period

180. The authorities of the Superintendent and the trustee pursuant to Article B: Examination of the financial status of the natural person in Chapter G, and section 158 shall be in effect even after the expiration of the interim period, to the extent required for the purpose of continuing with the insolvency proceedings.

Referral of proceedings from the Superintendent to the Court

181. (a) Notwithstanding the provisions of section 122, the Superintendent, proactively or on application of a natural person, a creditor, or the trustee, shall be entitled to apply to the President of the Magistrates Court in the district where the insolvency proceedings are conducted and request to refer the proceedings to the Court.

(b) The President of the Magistrates Court who received an application pursuant to sub-section (a), or another judge of the Magistrates Court whom he authorized, may refer the insolvency proceedings to the Court if he thought that as a result of the complexity of the proceedings or for the purpose of conducting the proceedings the said proceedings should be conducted in Court.

(c) If the insolvency proceeding was referred to the Court under this section –

(1) The Court will have all management authorities of the insolvency proceedings under this Part;

(2) The trustee will act on behalf of the Court and shall be subject to its instructions and directions, and shall be entitled to file an application for directions from the Court as stated in section 129, and in this regard with respect to the matters enumerated in the first part of section 129(b).

Preservation of
authorities of the
Superintendent to
conduct insolvency
proceedings regarding
small debts

182. If the Superintendent issued an order to commence proceedings against a natural person and during the insolvency proceedings it transpired that the total amount of the debts of the natural person is lower than NIS 150,000 the Superintendent will continue to conduct the insolvency proceedings with respect to the said natural person.

Revoking an order to
commence proceedings
as a result of the conduct
of a natural person

183. (a) If the Court found in insolvency proceedings that commenced on application of a natural person that any of the conditions set out in section 163(c)(1) holds true, or that the natural person breached any of the terms set forth in the financial rehabilitation order and consequently the proper management of the insolvency proceedings was materially impaired, he may, after he afforded to the natural person and to the creditors an opportunity to present their case, revoke the order to commence proceedings; if the Court ordered on the revocation of the order, the Court will order on the manner of handling the assets of the insolvency estate.

(b) The Court may defer the revocation of the order to commence proceedings to allow the repeated imposition of restrictions or attachments that were revoked upon at the time of issuing the order, pursuant to section 121.

(c) The revocation of an order to commence proceedings shall be without prejudice to the effect of a sale, transfer, payment or any other legal action that were executed lawfully prior to the revocation.

(d) The provision of this section shall be without prejudice to the authority of the Court to revoke an order to commence proceedings pursuant to section 286.

Additional insolvency proceeding

184. (a) The issuance of an order to commence proceedings with respect to a natural person shall not prevent the issuance of an additional order to commence proceedings in respect whereof (in this section – the Additional Order) on the grounds of debts other than past debts in the first insolvency proceeding.

(b) If an application for an Additional Order was filed, the trustee who was appointed in the first insolvency proceeding will avoid, to the extent possible, from performing any action in the assets in the insolvency estate until a decision in the application for the Additional Order is made.

(c) After an Additional Order is issued, the insolvency proceedings of the natural person will be consolidated and will continue in accordance with the terms set forth in the Additional Order; the Court or the Superintendent who issued the Additional Order shall be entitled to lay down in the said order instructions regarding the consolidation of proceedings, including provisions with respect to the following matters:

- (1) Recognition of the debt claims that were filed within the framework of the first insolvency proceeding;
- (2) Delegation of the authorities of the trustee who was appointed in the first insolvency proceeding to the trustee who was appointed following the issuance of the Additional Order;
- (3) Any other provision that can assist in conducting the additional insolvency proceeding.

(d) The issuance of an Additional Order shall be without prejudice to any action that the trustee performed in the first insolvency proceeding.

Debt arrangement

185. (a) The issuance of an order to commence proceedings in respect of a natural person shall be without prejudice to the entitlement of the natural person to submit a proposal for a debt arrangement pursuant to the provisions of Part J: Debt arrangement not within the framework of an order to commence proceedings.

(b) After the approval of the debt arrangement pursuant to the provisions of Part J: Debt arrangement not within the framework of an order to commence proceedings, the order to commence proceedings that was issued with respect to the natural person will be revoked; the revocation of the order shall be without prejudice to the effect of a sale, transfer, payment or any other legal action that were lawfully executed prior to the revocation.

Chapter L: Insolvency proceedings in respect of a natural person with small debts

Article A: General

A natural person with small debts

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Commencement of proceedings by a natural person with small debts

186. A natural person may commence insolvency proceedings even if the total amount of his debts does not exceed NIS 149,559.6 in accordance with the provisions of this Chapter, provided that he is in a state of insolvency or the order will help in preventing his insolvency (in this Chapter – a Natural Person with Small Debts).

187. (a) The commencement of proceedings by a Natural Person with Small Debts may be carried out as follows:

(1) The natural person will submit notice to the Execution Registrar stating that the natural person cannot pay the judgement debt, pursuant to section 7a2 of the Execution Law that shall be deemed as an application for an order to commence proceedings pursuant to the said section;

(2) Filing an application for an order to commence proceedings to the Execution Registrar, provided that the total amount of his debts exceeds NIS 49,853.2.

(b) Notwithstanding the provisions of sub-section (a)(2), the Execution Registrar may issue an order to commence proceedings to a natural person whose total debt does not exceed NIS 49,853.2 provided that he found that there are special reasons justifying such action, and in this regard if proceedings in accordance with the Tax Ordinance (Collection) are held against the natural person.

(c) An application as stated in sub-section (a)(2) or (b) may also be filed to the Execution Registrar in each of the Execution offices that offer an insolvency track, as stated in section 189; the natural person will attach to the application the documents listed in section 104(b).

Conducting insolvency proceedings before a designated Execution Registrar

188. (a) The insolvency proceedings that a Natural Person with Small Debts commenced will be conducted before an Execution Registrar designated for insolvency proceedings in respect of whom the conditions set out in sub-section (b) hold true, and the said Registrar shall have the authorities conferred under this Law to the Court and to the Superintendent in the insolvency proceedings of a natural person, and all subject to the provisions of this Chapter.

(b) The designated Execution Registrar for the insolvency proceedings will be the Execution Registrar that the Director of the Execution Systems appointed, in consultation with the Superintendent of Registrars, as meant by this term in section 3C of the Execution Law, and who was authorized to act as a designated registrar for insolvency proceedings, after he received special training for that purpose; the main occupation of such a registrar as said shall be in conducting insolvency proceedings.

(c) The provisions of sections 3A, 3B and 73A of the Execution Law shall apply to insolvency proceedings conducted before the Execution Registrar.

The Execution Office in which the insolvency proceedings will be conducted

189. (a) Insolvency proceedings that a Natural Person with Small Debts commenced will be conducted in the Execution Office that offers an insolvency track, in the district in which the majority of the execution files against the natural person were opened; in the absence of such a district as said – the proceedings will be conducted in the district where the natural person resides or where his principal place of business or his assets are managed, and in the absence of such a district as said – in Jerusalem.

(b) The insolvency track will operate in at least one Execution Office in each of the districts as defined in section 2(c) of the Execution Law; the Minister will publish in the Official Gazette a notice regarding the Execution Offices in which the insolvency track operates.

(c) It is possible to file applications and documents relating to the insolvency proceeding and receive information in connection with this proceeding in any Execution Office.

Article B: Formulating a payments arrangement

Decision of the Execution Registrar on proceedings for the formulation of a payments arrangement

190. (a) If the Execution Registrar found, after he inspected the application for an order to commence proceedings that a Natural Person with Small Debts filed and the documents attached thereto and, if this is required, the information he received from one of the entities enumerated in section 104(b)(3), that the conditions set out in sections 186 and 187 hold true, he will order, in 30 days as of the filing date of the application, to convene a meeting for the purpose of formulating a payments arrangement.

(b) If the Execution Registrar is of the opinion that the application and the documents attached thereto and the information he received from an entity enumerated in section 104(b)(3) are insufficient for the purpose of making a decision in the application, he may demand from the natural person additional information that he requires for that purpose or summoning him to a hearing before him; if the Registrar made such a demand as said, he will give his decision in 30 days as of the date of receiving the information or the end of the hearing.

Holding a meeting for the purpose of formulating a payments arrangement

191. (a) If the Execution Registrar ordered to convene a meeting for the purpose of formulating a payments arrangement, an employee of the Execution System who was authorized by the Director of the Execution System for that purpose (in this Chapter – Representative on behalf of the Registrar) will send summons to the meeting, to the

natural person and to the creditors that the natural person stated in his application for an order to commence proceedings.

(b) The meeting for the purpose of formulating a payments arrangement will be convened in the place and time as stated in the summons, provided that the said meeting is convened in 30 days as of the date the Execution Registrar ordered on its convening; the Representative on behalf of the Registrar will chair the meeting.

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(c) The natural person who filed the application is required to be present at the meeting and cooperate with the representative on behalf of the authority; the Execution Registrar may order to convene the meeting by way of telecommunication if he found that convening the meeting by way of telecommunication does not harm the proceeding, provided that the natural person considered to hold the meeting by way of telecommunication.

(d) For the purpose of formulating the payments arrangement, and to the extent required, the Representative on behalf of the Registrar shall be entitled to inspect the documents that the natural person attached to the application to commence proceedings and demand from any entity enumerated in section 104(b)(3) who holds information about the natural person as stated in the said section to provide him the information.

(e) At the opening of the meeting the Representative on behalf of the Registrar will explain to the parties the essence of the proceeding for the payments arrangement and their rights and obligations as part of the proceeding, and in this regard will clarify to the natural person his rights and obligations including his right to subsistence allowance, *inter alia*, if an order to commence proceedings is issued against the said natural person.

(f) The Minister shall be entitled to lay down instructions regarding the required eligibility from the Representatives on behalf of the Registrar, and may, with the approval of the Constitution Committee, and notwithstanding the provisions of sub-section (a), order that the authority conferred on the Representative on behalf of the Registrar under this Article shall be conferred on anyone other than a civil servant, and lay down instructions regarding his eligibility and remuneration.

(g) The Director of the Execution System will lay down procedures regarding the summoning to meetings for the purpose of formulating payments arrangements, their date and the manner of conducting such meetings, and will oversee their performance, *inter alia*, by conducting periodic inspections.

A consensual payments arrangement

192. If the Representative on behalf of the Registrar formulated, in a meeting that was convened pursuant to section 191, a payments arrangement that was agreed by the natural person and all the creditors who are a party to the arrangement, the arrangement shall bind the natural person and the said creditors and the Execution Registrar will order on a stay of the execution proceedings or the closing of the execution files with respect to the debts of the natural person in respect of which the arrangement applies, and all in accordance with the instructions set forth in the arrangement.

Referring a payments arrangement to a hearing before the Execution Registrar in the absence of consent

193. If the Representative on behalf of the Registrar, in a meeting that was convened pursuant to section 191, formulated a payments arrangement, however the entire creditors who are a party to the proposed arrangement did not agree to the said arrangement, and the Representative on behalf of the Registrar is of the opinion that it is reasonably possible that the arrangement will be approved pursuant to the provisions of this Article, the representative on behalf of the Registrar will deliver the arrangement he formulated to the Execution Registrar, provided that all of the following hold true:

- (1) The natural person agreed to the payments arrangement;
- (2) The arrangement does not apply to secured debts.

Summoning a creditors' meeting and hearing on the proposal for a payments arrangement in the absence of consent

194. (a) If the Representative on behalf of the Registrar delivered to the Execution Registrar the payments arrangement formulated pursuant to section 193, the Execution Registrar may, if he found that it is reasonably possible to approve the arrangement in accordance with the provisions of this Article, summon a creditor's meeting that will be held before him for the purpose of debating and voting about the arrangement.

(b) The Execution Registrar will summon to the creditors' meeting the creditors who are a party to the proposed arrangement and the natural person, and will attach a copy of the arrangement to the summons; if the natural person received a summons as said, he will appear in the creditors' meeting.

(c) In the creditors' meeting the Execution Registrar will hold a discussion regarding the payments arrangement that was formulated by the Representative on behalf of the Registrar and shall be entitled to conduct an investigation of the capacity of the natural person in accordance with the provisions of the Execution Law, in the presence of the creditors and as part of the meeting.

(d) At the end of the discussion regarding the payments arrangement, and if he found that the natural person agrees to the arrangement and that the arrangement

does not constitute abuse of execution proceedings, the Execution Registrar will bring the arrangement for the approval of the creditors in the meeting.

Approval of a payments arrangement at the creditors' meeting

195. (a) A payments arrangement shall be deemed as an arrangement that was approved by the creditors in the creditors' meeting if all of the following hold true with respect to such an arrangement:

(1) The majority of the voters from among the creditors of the debts in the Execution Office who are party to the proposed arrangement and who credit at least three quarters of the amount of the debts as said supported the arrangement;

(2) The entire creditors who are a party to their proposed arrangement that have debts other than debts to the Execution Office supported the arrangement.

(b) A creditor shall exercise his right to vote conferred on him in good faith and in customary manner and will avoid abusing his power.

(c) In this section –

“Execution Office debts” – debts in respect of which a proceeding commenced in accordance with the Execution Law and debts under a judgment in respect of which it is possible to commence a proceeding even if such a proceeding did not commence yet;

“Voters” – except for those who abstained in the vote.

Approval of a payments arrangement by the Execution Registrar

196. (a) If the payments arrangement was approved by the creditors in the creditors' meeting, the arrangement requires the approval of the Execution Registrar.

(b) When considering the approval of a payments arrangement, the Execution Registrar will take into account, *inter alia*, considerations relating to the fairness of the proceeding, and shall be entitled to stipulate the approval of the arrangement on training for proper financial conduct that the natural person will undergo, if he found that the circumstances that led the natural person to a state of insolvency indicate that the training will contribute to his financial rehabilitation; the provisions set forth in section 161(b)(5) shall apply to such a training as said.

(c) The Execution Registrar will not approve a payments arrangement if he was convinced that the consideration that was offered to a creditor who did not support

Power of an approved payments arrangement

the arrangement is lower than the consideration that the said creditor would have obtained if a financial rehabilitation order was issued in respect of the natural person. 197. (a) If a payments arrangement was approved by the creditors in a creditors' meeting, and by the Execution Registrar in accordance with the provisions of this Article, the arrangement shall bind the natural person and the said creditors.

(b) A natural person may not be exempt from debts excluded from discharge in a payments arrangement that was approved as stated in sub-section (a).

(c) If a payments arrangement was approved in the manner as stated in sub-section (a), the Execution Registrar will order a stay of proceedings of the execution proceedings, or the closing of the execution files with respect to the debts of the natural person to which the arrangement applies, and all in accordance with the instructions set forth in the arrangement.

Preservation of the right of a natural person to formulate a debt arrangement

198. The provisions of this Article shall be without prejudice to the option granted to the natural person to submit a proposal for a debt arrangement pursuant to the provisions of Part J: A debt arrangement not within the framework of an order to commence proceedings.

Article C: Order to commence proceedings

Issuance of an order to commence proceedings by the Execution Registrar

199. If no consensual payments arrangement or an arrangement that was approved by the creditors and the Execution Registrar was approved, pursuant to the provisions of Article B: Formulating a payments arrangement, the Execution Registrar will issue an order to commence proceedings in respect of the Natural Person with Small Debts.

Application to revoke an order to commence proceedings

200. (a) Whoever considers himself aggrieved by the issuance of an order to commence proceedings that was issued by the Execution Registrar pursuant to section 199 with respect to a Natural Person with Small Debts may file an application for the revocation of the order to commence proceedings to the Execution Registrar, in 45 days as of the publication date of the notice regarding the issuance of the order.

(b) The provisions of section 108 shall apply to an application filed pursuant to sub-section (a) and the hearing thereof, *mutatis mutandis*.

Applicability of the provisions of the law

201. After issuance of the order to commence proceedings with respect to a Natural Person with Small Debts, pursuant to section 199, the provisions of this Law that apply to insolvency proceedings of a Natural Person with Small Debts that are conducted in accordance with an order to commence proceedings that was issued by the Superintendent shall apply to the insolvency proceedings of the natural person that

are conducted in the Execution Registrar, *mutatis mutandis*, and according to the changes as stated in this Chapter.

Conferring the authorities of the Superintendent on the Execution Registrar

202. The authorities conferred on the Superintendent under this Law with respect to the insolvency proceedings of a natural person that are conducted in accordance with an order to commence proceedings that the Superintendent issued shall be conferred on the Execution Registrar with respect to insolvency proceedings of a Natural Person with Small Debts conducted in the Execution Registrar, except for the following authorities;

- (1) The authority to lay down instructions and give general directions in accordance with this Law;
- (2) The authority to be a party to proceedings that are conducted before the Court.
- (3) The authority with respect to insolvency proceedings of a natural person that died, pursuant to Chapter J: Provisions regarding a natural person who died;
- (4) The authority to inquire the conduct of the trustee, pursuant to section 274; however, the Execution Registrar shall be entitled to request from the Superintendent to inquire the trustee; if the Superintendent finds that the information that reached his possession pursuant to the said section can affect a proceeding that is conducted before the Execution Registrar, he will deliver the said information to the Registrar.

Authority of the Execution Registrar to issue a financial rehabilitation order

203. (a) The authority to issue a financial rehabilitation order pursuant to Chapter H: Financial rehabilitation order with respect to a Natural Person with Small Debts in respect of whom an order to commence proceedings was issued pursuant to section 199 shall be conferred in the Execution Registrar;

(b) The Execution Registrar will issue the financial rehabilitation order after he held a hearing on the inquiry findings report that the trustee submitted to him, pursuant to section 153, and to which the natural person and the creditors were summoned, and the provisions of Article C: Proposal by the Superintendent for a financial rehabilitation order and hearing thereof in Chapter G shall not apply.

Conferring the authorities of the Court on the Execution Registrar

204. The authorities conferred on the Court under this Law as stated hereunder shall be conferred on the Execution Registrar with respect to the insolvency proceedings of a Natural Person with Small Debts heard by the Execution Registrar:

- (1) The authority to terminate the appointment of the trustee, pursuant to section 140;

- (2) The authorities with respect to the financial rehabilitation order, pursuant to Chapter H: Financial rehabilitation order;
- (3) The authorities regarding the applicability of the discharge and the revocation of the discharge, pursuant to sections 175 and 176;
- (4) The authority to allocate an amount that will be paid to a person entitled to alimony from the natural person, pursuant to section 179(a)(2);
- (5) The authority to revoke an order to commence proceedings as a result of the conduct of the natural person, pursuant to section 183;
- (6) The authority to approve dismissal of a debt claim in respect of a debt in respect of which a judgment was given, pursuant to section 211(b);
- (7) The authority to approve withdrawal of funds from a provident fund pursuant to section 228;
- (8) The authority to approve the sale of rights in a land used as the dwelling house of the natural person, pursuant to section 229;
- (9) The authorities regarding the realization of an encumbered asset, pursuant to section 248;
- (10) Inquiry authorities, pursuant to section 281;
- (11) The authority to issue an order ordering to whoever was summoned to an inquiry or an investigation to appear, pursuant to section 282;
- (12) The authority to issue an order ordering the seizure of an asset or a document of the natural person, pursuant to section 283;
- (13) The authority to issue to a natural person a departure prohibition order, pursuant to section 284;
- (14) The authority to revoke an order to commence proceedings on the grounds of insolvency, pursuant to section 286.

Article D: Miscellaneous provisions

Authority of the Execution Registrar not to appoint a trustee

205. The Execution Registrar may not appoint a trustee if he found that there is no justification for such action as said under the circumstances of the case and for reasons that will be noted; if the Registrar decided as said, the Registrar will perform all the functions of the trustee in accordance with this Law.

The right of a creditor to apply to the Execution Registrar

206. Notwithstanding the provisions of section 259, a creditor will apply to the Execution Registrar in connection with any question relating to his rights in insolvency proceedings with respect to matters that are under the authority of the Execution Registrar under this chapter.

Referral of proceedings
from the Execution
Registrar to the Court

207. (a) The Execution Registrar may, proactively or on application of a natural person, a creditor, or the trustee, apply at any time to the President of the Magistrates Court in the district where the insolvency proceedings of a Natural Person with Small Debts are conducted and request to refer the proceedings to the Court.

(b) The President of the Magistrates Court who received an application pursuant to sub-section (a) or another judge of the Magistrates Court whom he authorized may refer the insolvency proceedings to the Court if he is of the opinion that, as a result of the complexity of the proceedings or for the purpose of conducting the proceedings efficiently and properly the proceedings should be conducted in Court.

(c) If the proceedings were referred to the Court under this section –

(1) The Court will have all management authorities of the insolvency proceedings under this Part;

(2) The trustee will act on behalf of the Court and will be subject to the instructions and directions of the Court, and shall be entitled to apply to the Court for the purpose of receiving directions.

Referral of proceedings
from the Execution
Registrar to the
Superintendent
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208. If one of the following holds true, the Execution Registrar will order on the referral of the insolvency proceedings with respect to a Natural Person with Small Debts to the Superintendent:

(1) The Execution Registrar found, during the insolvency proceedings, that the total debts of the natural person exceed substantially an amount of NIS 149,559.6;

(1) An application pursuant to section 133(c) was filed in court for the purpose of inquiring a dispute with respect to the right of the natural person in an asset or a document that the trustee demanded to obtain;

(3) An application to cancel an action for the preference of a creditor, an action for the removal of an asset from the insolvency estate or an action for the dissipation of an asset pursuant to Article B: Avoiding transactions that diminish the insolvency estate in Chapter B in Part D was filed.

Part D: Creditorship

Chapter A: Debt claims

Right of creditor
according to an approved
debt claim

209. A debt claim in respect of a past debt that the trustee approved in accordance with the provisions of this Chapter confers on the creditor in the past debt a right to part of the assets in the insolvency estate.

Filing debt claims

210. (a) A creditor of a past debt shall be entitled to file a debt claim to the trustee in six months as of the publication date of the order to commence proceedings; the trustee shall be entitled to request from the creditor the complete information that is related to the debt claim, if he is of the opinion that this is necessary for the purpose of deciding in the claim.

(b) Notwithstanding the provisions of sub-section (a), if a past debt was created after the issuance of the order to commence proceedings, and in this regard a debt to the National Insurance Institute stemming from the payment of benefits pursuant to Chapter H of the National Insurance Institute Law, the debt claim will be filed in 45 days as of the date of creation of the debt or until the expiration of the period set out in sub-section (a), whichever is later.

(c) The trustee shall be entitled to extend the period for filing a debt claim if he found that circumstances exist and for which the creditor could not have filed the claim on time and that it would be just to act in such manner as said, taking into consideration, *inter alia*, the stage in the proceeding in which the application was filed.

(d) With respect to an asset encumbered by a fixed charge, the debt claim of a creditor will also include information regarding the encumbered asset in his favor and an estimate of its value, to the extent possible; the Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the estimate of the value of the encumbered asset, including the manner such an estimate will be performed, and the circumstances in which it can be changed.

(e) The amount that an employee received as benefits pursuant to Chapter H of the National Insurance Institute will be subtracted from the debt claim of an employee; the Minister shall be entitled to lay down instructions for the purpose of this matter, including instructions regarding the manner of filing a debt claim of an employee and regarding the reporting duty of the trustee to the National Insurance Institute.

(f) The Minister will lay down instructions regarding the manner of filing the debt claim, the particulars included therein, including particulars regarding the interest and linkage differentials components and the documents attached thereto.

Deciding on debt claims

211. (a) The trustee will hear a debt claim that was submitted to him and will decide whether to grant or dismiss such a claim.

(b) The trustee shall be entitled, with the approval of the Court, to dismiss a debt claim in respect of a debt for which a judgment was given, if he found that one of the following holds true:

- (1) The judgment was given based on the conduct of the parties that constitutes deception or conspiracy;
- (2) There were other circumstances in which the judgment was given without conducting an inquiry on the substance of the matter and consequently there is an actual concern that it does not properly reflect the debt of the natural person.

(c) The trustee will notify a creditor who filed the debt claim regarding the decision in the debt claim; if the debtor a natural person – the trustee will notify his decision also to the natural person.

(d) A debt claim that was filed in respect of a past debt stemming from a payment that was imposed in an administrative proceeding or in a criminal proceeding or that is a debt to the National Insurance Institute stemming from the payment of benefits pursuant to Chapter H of the National Insurance Institute Law will be approved by the trustee, unless it was filed not on time or did not include the entire particulars and documents required pursuant to section 210(f).

(e) The Superintendent shall be entitled to exempt the trustee from an inquiry in a debt claim if he found that the assets of the insolvency estate are insufficient for the purpose of performing a distribution to the creditor who filed the debt claim, and to the other creditors in the same rank in the payment order.

Past debt which is due to be paid after the issuance of order to commence proceedings

212. The creditor shall be entitled to claim a past debt whose payment date is due after the issuance of an order to commence proceedings as if it is called for immediate payment on the issuance date of the order; with regard to the order of payment the interest that accrued or that should have been accrued as of the issuance date of the order henceforth shall be deemed as interest accrued in insolvency proceedings.

Assessment of an unliquidated past debt
Right of inspection

213. If a past debt is an unliquidated debt, the trustee will assess the said debt.

214. Any interested party in an insolvency proceeding shall be entitled to inspect debt claims that creditors filed and the decisions of the trustee in connection therewith; the Superintendent shall be entitled to lay down instructions regarding the right of inspection pursuant to this section.

Appeal against a decision on a debt claim 215. Whoever considers himself aggrieved as a result of the decision of a trustee in a debt claim shall be entitled to file an appeal against the decision to the Court.

Chapter B: The insolvency estate

Article A: The assets included in the insolvency estate

Assets of the insolvency estate 216. The assets of the insolvency estate will include the following –

(1) In respect of a debtor that is a corporation – any asset of the corporation on the issuance date of the order to commence proceedings and any asset granted to the corporation until the date of its winding-up, and if a financial rehabilitation plan was approved with respect to the corporation – any asset of the corporation in accordance with the instructions set forth in the plan;

(2) In respect of a debtor that is a natural person – any asset of the natural person on the issuance date of the order to commence proceedings, any asset granted to him until the issuance date of the financial rehabilitation order, and any asset that is included in the assets in the insolvency estate in accordance with the financial rehabilitation order.

Assets that are not part of the insolvency estate 217. If the debtor is a natural person, the following shall not be included in the assets in the insolvency estate –

- (1) Assets enumerated in the Second Schedule;
- (2) Rights to benefits to which the provisions of section 303 or 311 of the National Insurance Institute apply, a provision in another enactment that applies the said sections or that lays down an arrangement that is similar to the arrangement defined therein.

An asset seized in a collection proceeding that has not yet been completed 218. If an asset of the debtor was seized within the framework of a collection proceeding and on the issuance date of the order to commence proceedings the creditor did not yet receive the entire consideration for its sale, the following provisions shall apply:

- (1) If the asset was not sold yet – the asset will be included in the assets in the insolvency estate and the expenses paid for its seizure and sale shall be deemed as a senior charge on the asset;
- (2) If the asset was sold – the consideration obtained from its sale, after deduction of expenses that were paid for its seizure and sale, will be included in the assets of the insolvency estate.

Article B: Avoiding transactions that diminish the insolvency estate

Avoiding an action giving preference to creditors

219. (a) (1) The Court may order the avoidance of an action that resulted in the payment of the debt to a creditor or his movement upward in the payment order and that was performed prior to the issuance date of the order to commence proceedings, including an action that was performed within the framework of a collection proceeding and including the transfer of title in an asset or encumbrance of an asset, if all of the following hold true (in this Article – Action that Prioritizes a Creditor):

(a) The date of performance of the action occurs in the period commencing three months prior to the filing date of the application to commence proceedings, and with respect to a creditor who is a relative of the debtor – a year prior to the said date;

(b) The debtor was in a state of insolvency on the date of performance of the action;

(c) A larger part of the debt compared to the part that would have been paid for the creditor as a result of the action within the framework of the insolvency proceedings according to the order of creditorship;

(2) For the purpose of this section, it shall be presumed that the debtor was in a state of insolvency during the period as stated in paragraph (1)(a), unless it was otherwise proven.

(b) The Court will not revoke an Action that Prioritizes a Creditor if one of the following holds true:

(1) On the date of performance of the action or at about that time the debtor received proper consideration under the circumstances of the case with respect to the action he performed; for the purpose of this matter, the payment of the debt, in and of itself, shall not be deemed as proper consideration;

(2) The performance of the action was in the ordinary course of business of the debtor and the debt that was paid in respect of the action was created in the ordinary course of business and the debt that was paid in respect of the action was created in the ordinary course of business of the debtor; with respect to the payment in installments of a debt to the Tax Authority, to a municipality or to the National Insurance Institute – the fact that the installments arrangement was made as a one-time arrangement shall not be

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deemed, in and of itself, as an action not in the ordinary course of business;

(3) In respect of a debtor that is a natural person – the debt that was paid is a debt to a person other than the relative of the debtor and for an amount that does not exceed NIS 4,985.32, and with respect to a debt in respect of rent or a continuing service – the said amount will be calculated based on the monthly payment;

(4) With respect to a debtor that is a natural person – the debt that was paid is an alimony debt whose obligation arose following a judgment.

(c) If a debt was signed from a creditor to another person prior to the issuance of an order to commence proceedings, and following the assignment the assignee became, with respect to the said debt, a creditor with special payment rights to which the provisions of Chapter F: Creditors with special payment rights, apply, the Court shall be entitled to order that the special payment rights under the said chapter will not be conferred on the assignee with respect to the said debt, provided that the conditions set forth in sub-section (a) with respect to assignment hold true.

Avoiding an action that removes assets from the insolvency estate

220. (a) The Court may order the avoidance of an action that was performed prior to the issuance date of the order to commence proceedings and for which an asset was diminished from the assets in the insolvency estate, if all of the following hold true (in this Article – an Action Removing an Asset from the Insolvency Estate):

(1) The action was performed in return for no consideration or for consideration that is inappropriate under the circumstances of the case;

(2) The date of performance of the action occurred in a period that commenced two years prior to the filing date of the application to commence proceedings and with respect to an action in favor of a relative – four years prior to the said date;

(3) On the date of performance of the action the debtor was in a state of insolvency, or the performance of the action caused him to be in a state of insolvency.

(b) For the purpose of this section, it shall be presumed that a debtor was in a state of insolvency during the period as stated in sub-section (a)(2) unless otherwise proven.

Avoiding an action aimed at dissipating assets

221. The Court may order the avoidance of an Action Removing an Asset from the Insolvency Estate that was performed for the purpose of concealing the asset from the creditors, even if at the time of performing the action the debtor was not in a state of insolvency, provided that the date of performance of the action occurred in a period commencing seven years prior to the filing date of the application to commence proceedings and expiring on the issuance date of the order (in this Article – an Action Aimed at Dissipating an Asset); when the Court orders as said, it may take into consideration whether the recipient of the asset received the asset in good faith.

Preservation of rights of a third-party

222. The avoidance of an Action that Prioritizes a Creditor, an Action Removing an Asset from the Insolvency Estate or an Action Aimed at Dissipating an Asset under this Article shall be without prejudice to the rights of a third party who acquired a right in the asset in respect of which it was performed after the performance of the action, in good faith and for consideration.

Effects of avoidance

223. (a) If the Court, pursuant to this Article, avoided an Action that Prioritizes a Creditor, an Action Removing an Asset from the Insolvency Estate or an Action Aimed at Dissipating an Asset, the assets that were returned following such avoidance as said will be included in the insolvency estate.

(b) Notwithstanding the provisions of sub-section (a), if the return of the asset to the insolvency estate is impossible or unjust under the circumstances of the case, or if the asset was acquired by a third party as said in section 222 – the party in whose favor the action was performed will pay the value of the asset in the manner ordered by the Court.

Chapter C: Collection and management of the assets of the insolvency estate

Collection of the assets in the insolvency estate

224. (a) If an order to commence proceedings was issued, the trustee will act pursuant to his authorities under Chapter F: The appointment, duties and authorities of the trustee in Part C, for the purpose of receiving to his possession or supervision the assets of the debtor and the documents related to the insolvency proceedings that the debtor is entitled to receive.

(b) Within the framework of the collection of the assets in the insolvency estate the trustee will examine, *inter alia*, the effect of encumbrances imposed on such assets as said and the existence of causes of action that the debtor has that can add assets to the insolvency estate.

Notice on assets and documents of the debtor

225. A creditor who has an asset or a document in which the debtor has a right relating to the insolvency proceedings and became aware of the issuance of an order to commence proceedings against the debtor will notify the trustee, in 21 days as of the date he became aware of the issuance of the order, regarding the existence of the

asset or the document as said, and will act in accordance with the instructions of the trustee; the Minister shall be entitled to lay down instructions regarding a notice under this section, including with respect to the manner of its delivery.

Managing the assets in the insolvency estate

226. (a) The trustee will manage the assets in the insolvency estate in an efficient and optimal manner for the purpose of preserving and increasing their value in accordance with the instructions set forth by the Superintendent.

(b) If the debtor a natural person, the trustee may, with the approval of the Superintendent, receive assistance from the natural person for the purpose of managing the assets in the insolvency estate.

(c) The trustee will deposit the amounts he received in the course of the insolvency proceedings and that are designated for distribution to the creditors in the place, in the manner and on the dates as ordered by the Superintendent; the Superintendent shall be entitled to lay down instructions regarding the manner of investment of the said amounts.

(d) If the trustee withheld amounts in contravention of the provisions of subsection (c), the trustee will pay linkage differentials and interest as meant by these terms in the Adjudication of Interest and Linkage Law with respect to the amounts he withheld.

(e) The trustee will not deposit in his private account any amount he received as a trustee within the framework of the insolvency proceedings.

Chapter D: Realization of assets in the insolvency estate

Realization of assets in the insolvency estate

227. If an order to commence proceedings was issued with respect to a debtor who is a natural person, or if such an order as said was issued with respect to a debtor who is a corporation and the court ordered its winding up, the trustee will act for the purpose of realizing the assets in the insolvency estate in a manner that will maximize their value; the Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the manners of realizing the assets in the insolvency estate.

Withdrawal of funds from a provident fund

228. The withdrawal of funds that are due to a debtor who is a natural person from a provident fund, as defined in the Control of Financial Services (Provident Funds) Law 5765-2005 requires the approval of the Court; the Court shall be entitled to order

the withdrawal of the said funds, in whole or in part, except for funds designated for benefits whose date for their paid as benefits is not yet due.

Protection of dwelling
house

229. (a) If lands that are used, in whole or in part, for the residence of a debtor who is a natural person are included in the assets of the insolvency estate, the right in the land will be sold with the approval of the Court.

(b) The Court will not order in the manner set out in sub-section (a) however only after the Court held a hearing and afforded to the debtor and to the creditors an opportunity to present their case.

(c) The Court will not approve the sale of a right in the land as stated in sub-section (a) unless it found that all of the following hold true:

(1) The benefit that will accrue to the creditors from the sale of the said right outweighs the harm caused to the natural person as a result of such action as said, taking into consideration, *inter alia*, the age of the natural person and his family members residing with him and their personal circumstances, including their physical condition;

(2) There is no reasonable possibility to pay the debt in any other manner that will cause less harm to the natural person;

(3) The natural person and the family members residing with him will have a reasonable place of residence in their residential area that is in conformance to their requirements or they received an alternative arrangement for a period prescribed by the Court in accordance with the provisions of sub-section (d) of a reasonable place of residence in their residential area that is in conformance to their requirements.

(d) The term of the alternative arrangement will be set in accordance with the following provisions:

(1) With respect to a natural person in respect of whom the Court sees that he will be able to pay for a reasonable place of residence for himself and for his family members residing with him after the completion of the insolvency proceedings, whether by his future earning capacity and whether by income or other rights – for a period of four years, and the Court may prescribe a shorter or longer period if it found that this is

justified, based on the considerations as stated in sub-section (e), *inter alia*;

(2) With respect to a natural person that the Court did not find that he will be able to pay for a reasonable place of residence for himself and for his family members residing with him after the completion of the insolvency proceedings, whether by his future earning capacity and whether by income or other rights – for a period prescribed by the Court, and the Court may prescribe that the period of the alternative arrangement shall be for the entire lifetime of the natural person.

(e) (1) When coming to determine the period of the alternative arrangement pursuant to sub-section (d), the Court will consider the following, *inter alia*:

(a) The age of the natural person and the family members residing with him, including his proximity to the age of retirement;

(b) The personal circumstances of the natural person and the family members residing with him, and their present and future requirements, including their physical condition;

(c) If the natural person satisfies one of the conditions for an extension of the period of the payments set out in section 163(c);

(2) When coming to determine the future earning capacity of the natural person the Court will take into consideration his age and proximity to the retirement age, *inter alia*.

(f) The provisions of section 33 of the Tenant Protection Law [Consolidated Version] 5732-1972 shall not apply to a right in the land of a natural person or whoever was his partner in a right in the land.

(g) The provisions of this section shall not apply with respect to the realization of a mortgage or a pledge of a right in the land of the natural person that are used, in whole or in part, for his residence, and the provisions of Article A: Secured creditor, in Chapter F shall apply with respect to such a right, and with regard to the provision of an alternative arrangement – the provisions of section 38(c) of the Execution Law shall apply, *mutatis mutandis*.

Chapter E: Distribution of assets in the insolvency estate

Article A: General

Distribution of assets in the insolvency estate – general provisions

230. If an order to commence proceedings was issued, the assets in the insolvency estate will be distributed according to the payment order set out in Article B: Order of payment, and in the manner set out in Article C: Manner of distribution, however if a financial rehabilitation plan was approved with respect to a debtor that is a corporation, the distribution shall be carried out in accordance with the instructions set forth in the plan.

Article B: Order of payment

Order of payment

231. The debts of the debtor and the expenses of the insolvency proceedings will be paid from the assets in the insolvency estate based on the following order:

- (1) Secured debts – pursuant to the provisions of Article A: Secured creditor, in Chapter F;
- (2) Insolvency proceedings expenses – pursuant to the provisions of section 233;
- (3) Preferential debts – pursuant to the provisions of section 234;
- (4) Debts in respect of which an asset was encumbered under a floating charge for the purpose of ensuring their payment – pursuant to the provisions of Article A: Secured creditor, in Chapter F;
- (5) General debts – pursuant to the provisions of section 235;
- (6) Additional interest – pursuant to the provisions of section 236;
- (7) Deferred debts – pursuant to the provisions of section 237.

Equality

232. Debts in all ranks in the payment order will be paid to all creditors in the same rank at an equal rate according to their amounts and without any preference.

Expenses of the insolvency proceeding

233. (a) The following are the expenses of the insolvency proceeding:

- (1) All expenses stemming from the actions that the trustee or anyone acting on his behalf performed within the framework of the insolvency proceedings, including fees and the remuneration to the trustee;
- (2) The expenses in connection with the collection and the management of the creditors' committee, as meant by this term in section 263;
- (3) With regard to a debtor who is a natural person who died – reasonable expenses for the funeral of the natural person and expenses for the estate and its management;
- (4) Any other expense in respect of which it was stated under this Law that it shall be deemed as the expenses of the insolvency proceedings.

(b) The expenses of the insolvency proceeding will be paid on the date that was set for their payment in accordance with the law or an agreement.

(c) If the unencumbered assets in the insolvency estate are insufficient for the purpose of paying the expenses of the insolvency proceeding, the said expenses will be paid from the assets on which a floating charge is imposed.

Preferential debts

234. (a) The past debts as stated hereunder are preferential debts and will be paid according to the following order:

Notice 5781-2021

- (1) (a) A debt in respect of wages, as meant by this term in the Wage Protection Law 5718-1958, that is due to an employee in respect of the period prior to the filing of the application to commence proceedings and in respect of severance pay, in accordance with the provisions of the Severance Pay Law 5723-1963, with deduction of the benefits paid pursuant to Chapter H of the National Insurance Institute Law, for an amount that will not exceed NIS 27,951 with respect to wages, or business 41,927 with respect to severance pay together with wages;
(b) The amounts as stated in sub-paragraph (a) will be updated on January 1 in each year, according to the rate of change of the average wages, as meant by this term in the National Insurance Institute Law, and will be rounded to the nearest ten shekels; the Minister will publish in the Official Gazette a notice regarding the update of the said amounts;
- (2) An amount that the debtor withheld at source, pursuant to sections 164 or 170 of the Income Tax Ordinance and did not yet transfer to the Tax Authority, and an amount that the debtor deducted pursuant to section 342(c) of the National Insurance Institute Law and did not yet transfer to the National Insurance Institute;
- (3) An alimony debt whose obligation arose under a judgment and its payment date occurs prior to the issuance of the order to commence proceedings;
- (4) The principal of a VAT debt to the Tax Authority that accrued in the 12 months that preceded the issuance of the order to commence proceedings;
- (5) A mandatory payment whose payment is paid in accordance with an installments arrangement that was signed prior to the issuance of the order to commence proceedings; the preference under this section shall apply solely to the amount of the debt principal and will be limited to costs that accrued over a period not exceeding three years out of the installments

arrangement, and if the installments arrangement applies to costs for a longer period – the preference will apply to costs that accrued over a period of three years, not necessarily consecutive, in the manner decided by the debtor; for the purpose of this matter –

“Mandatory payment” – a tax debt to the Tax Authority, insurance benefits, as meant by this term in the National Insurance Institute Law, including health insurance premiums, as meant by these terms in the National Health Insurance Law 5754-1994, or a municipal taxes debt, as meant by this term in the Municipalities Ordinance [New Version] to a municipality;

“Installments arrangement” – a written arrangement signed by the debtor for the purpose of paying in installments a debt over a period of at least 12 months.

(b) If the unencumbered assets in the insolvency estate are insufficient for the purpose of paying the preferential debts, the said debts will be paid out of the assets under a floating charge.

General debts

235. (a) General debts are debts other than secured debts, preferential debts or deferred debts.

(b) The general debts will include linkage differentials that were added in accordance with the law or an agreement until the actual payment date and basic interest that was added in accordance with the law or an agreement until the issuance date of the order to commence proceedings, and if no linkage differentials or basic interest was set in accordance with any law or agreement – linkage differentials and interest shall be added to the general debts, as meant by these terms in the Adjudication of Interest and Linkage Law.

(c) The general debts will not include interest in arrears.

(d) In this section –

“Basic interest” – the interest in accordance with the law or an agreement that applies as long as the debtor makes timely payments of the payments the debtor owes:

“Interest in arrears” – the additional part of the interest in accordance with the law or an agreement on the basic interest that the debtor is obligated to pay as a result of failure to make timely payments that the debtor owes, and any

penalty for delay or any other similar payment irrespective of its name as a result of failure to make timely payment.

Additional interest

236. (a) Additional interest is any of the following:
- (1) The interest that accrued with respect to all the past debts of the debtor, except for deferred debts, as of the issuance date of the order to commence proceedings until their payment, including interest accrued to secured debts and that cannot be paid from the encumbered assets;
 - (2) Interest in arrears that was added until the issuance date of the order to commence proceedings.
- (b) The additional interest will be paid according to the following order:
- (1) Interest at a rate in accordance with the provisions of the Adjudication of Interest and Linkage Law;
 - (2) The outstanding balance of interest after the payment as stated in paragraph (1).

Deferred debts

237. The following debts are deferred debts and will be paid according to the following order:
- (1) Punitive payments that were imposed on the debtor;
 - (2) With respect to a debtor that is a corporation – debts to the members of the corporation stemming from their status as members of the corporation and debts to the members of the corporation, when there are grounds justifying the suspension of their payment pursuant to section 6(c) of the Companies Law or in accordance with the provisions set forth in any law.

Article C: Manner of distribution

Distribution of assets in the insolvency estate

238. The distribution of the assets in the insolvency estate to creditors in past debts and whose debt claim was approved and are not secured creditors will be carried out in accordance with the provisions set forth in this Article.

Interim distributions

239. (a) The trustee will distribute to the creditors, from time to time and at the earliest opportunity, funds that the trustee accrued from the realization of the insolvency estate (in this Article – Interim Distribution).

(b) The trustee will publish a notice for the purpose of this matter prior to each Interim Distribution, in the manner prescribed by the Minister.

(c) In an Interim Distribution the trustee shall withhold and shall not distribute amounts that are required to one of the following:

- (1) Payment of a past debt in respect of which its debt claim was filed and was not yet approved, and payment of a past debt in respect of which the claim debt was not yet filed if the trustee is aware of its existence, and that there are reasonable prospects that it will be approved;
- (2) Financing of the insolvency proceedings costs.

(d) A creditor whose debt claim was approved after an Interim Distribution, will receive payment from the trustee of any amount he did not receive in the said distribution, prior to any additional distribution.

Final distribution

240. (a) After completion of the realization of the entire assets in the insolvency estate that can be realized in the opinion of the trustee, the trustee will distribute the balance to the creditors (in this Article – Final Distribution).

(b) Prior to the Final Distribution the trustee will notify anyone who filed debt claims that were not yet decided and who did not substantiate their claims to his satisfaction regarding his intention to perform a Final Distribution and will set for them in the notice the time for the purpose of substantiating their claims.

(c) If the trustee decided in all debt claims that were filed and the date for filing an appeal against his decisions as stated in section 215 lapsed, the trustee will publish a notice regarding his intention to perform a Final Distribution; the Minister shall be entitled to lay down instructions regarding the date and the manner for delivery of notice pursuant to this sub-section.

Manner of performance of the distributions

241. The Minister shall be entitled to lay down instructions regarding the manner of performing the Final Distributions and the Final Distribution.

Right of the debtor to the surplus

242. If any assets remain in the insolvency estate after the payment of the entire debts to the creditors and the expenses of the insolvency proceedings, the surplus will be transferred in accordance with the following provisions:

- (1) In insolvency proceedings of a natural person – to the natural person;
- (2) In insolvency proceedings of a corporation – to the members of the corporation.

Chapter F: Creditors with special payment rights

Article A: Secured creditor

Secured creditor

243. (a) A secured creditor is a creditor to whom the debt owed by the debtor is a secured debt.

(b) If an order to commence proceedings was issued, a secured creditor shall be entitled to recover his secured debt from the asset encumbered in his favor, subject to the provisions of this Article and the payment order.

(c) The secured debt will include linkage differentials and interest that were added until its payment, except for interest in arrears, as defined in section 235, that was added as of the issuance date of the order to commence proceedings.

(d) If the amount of the secured debt is less than the consideration obtained from the realization of the encumbered asset, the difference will be part of the assets in the insolvency estate that are kept in favor of the payment of the balance of the debts.

(e) If a debt balance to the creditor remains after the payment of the secured debt following the realization of the encumbered asset, it shall be deemed as the debts of the debtor other than secured debts.

Restrictions regarding a floating charge

244. (a) If an order to commence proceedings was issued, the following restrictions shall apply regarding a floating charge:

(1) The floating charge shall apply until the completion of the insolvency proceedings, solely to the assets of the debtor on the issuance date of the order to commence proceedings, and to the consideration obtained for such assets as said or alternative assets to the said assets, that can be identified or traced (in this section – the Floating Charge Assets);

(2) A creditor secured with a floating charge may recover the secured debt from the Floating Charge Assets for an amount that will not exceed 75% of the consideration obtained from the realization of the Floating Charge Assets (in this section – the Asset Limit) and the following provisions shall apply:

(a) If the entire secured debt was not paid to the secured creditor under a floating charge as a result of the provisions of this section, the debt balance shall be deemed as the debts of the debtor other than the secured debts;

(b) The surplus of the value of the Floating Charge Assets exceeding the Charge Limit will be used for the purpose of paying the general debts.

(b) In this section the “consideration obtained from the realization of the Floating Charge Assets” – the consideration obtained from the realization of the Floating Charge Assets with deduction of the expenses paid for the purpose of preserving their value, for their appreciation and realization.

Restrictions on the realization of an encumbered asset when the business of the debtor is operated

245. (a) If an order to commence proceedings was issued and the Court ordered with respect to a debtor that is a corporation – on the operation of the corporation for its financial rehabilitation, or the Superintendent ordered with respect to a debtor that is a natural person – on the operation of its business pursuant to section 157, a secured creditor will not realize the encumbered asset encumbered in his favor under a fixed charge, and in a floating charge – will not formulate it, however only after obtaining the approval of the Court.

(b) The Court will approve the realization of the asset encumbered under a fixed charge or the formulation of the floating charge if one of the following holds true:

(1) The asset encumbered under a fixed charge or an asset to which the floating charge applies does not ensure adequate protection to the secured creditor, and no other manners for the purpose of ensuring such protection as said were prescribed;

(2) The encumbered asset or the asset to which the floating charge applies is not necessary for the financial rehabilitation of a debtor that is a corporation or for the purpose of preserving its business as an active business of a debtor that is a natural person.

Redemption of the encumbered asset by the trustee

246. The trustee may, at any time, redeem the encumbered asset; the provisions of the Pledge Law shall apply to the redemption of the encumbered asset, *mutatis mutandis*. The Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions for the purpose of this matter.

Notice regarding the intention to realize

247. (a) Without prejudice to the provisions of section 245, a secured creditor who wishes to realize an asset encumbered in his favor will notify the trustee regarding his intention to act in such manner as said, provided that he filed a debt claim prior to or concurrent with the delivery of the notice.

(b) If a secured creditor made an announcement in the manner set out in subsection (a), the trustee may, in 14 days as of the date of receiving the notice, redeem the encumbered asset as stated in section 246.

Realization proceedings
of an encumbered asset

248. (a) If the trustee did not redeem the encumbered asset during the period set out in section 247(b), the following provisions shall apply regarding the realization of the encumbered asset:

(1) If the estimate of the encumbered asset that the secured creditor submitted pursuant to section 210(d) (in this sub-section – Estimate of the Value of the Encumbered Asset) is substantially higher compared to the secured debt – the trustee will realize the asset;

(2) If the Estimate of the Value of the Encumbered Asset is not substantially higher compared to the secured debt – the asset will be realized by the secured creditor;

(3) If the Court found that the Estimate of the Value of the Encumbered Asset that the creditor submitted is unreasonable or that the secured creditor did not submit such an estimate as said, the Court may set by itself the estimate, and the provisions of paragraphs (1) or (2) shall apply to the realization, according to the estimate set by the Court.

(b) Notwithstanding the provisions of sub-section (a), the Court may, on application of a secured creditor, order that the realization of the encumbered asset will be carried out by the secured creditor if it found that this is justified under the circumstances of the case and that this will not harm the interests of the other creditors.

(c) In the realization of an encumbered asset by the trustee pursuant to sub-section (a), the trustee will act in accordance with the instructions of the secured creditor, however if the trustee is of the opinion that the instructions of the secured creditor can harm the interest of the other creditors, he may request from the Court directions regarding his actions.

(d) If the Court found that there are circumstances justifying such action, it may order that the realization of the encumbered asset by the secured creditor pursuant to sub-section (a)(2) or (b) will be carried out under the supervision of the trustee and in accordance with conditions set out by the Court.

Pledge securing a
financial obligation due
to an institutional body

249. The provisions of sections 247 and 248 shall not apply to a pledge as stated in section 17(3) of the Pledge Law and the provisions of the said law shall apply to its realization as said.

Distribution of proceeds from the realization of an encumbered asset

250. (a) The proceeds obtained from the redemption or the realization of the encumbered asset shall be recognized first in the account of expenses that were paid for the purpose of preserving its value, appreciation, and realization, and afterwards for each of the components of the secured debt hereunder, based on its relative part in the secured debt:

- (1) The debt principal and linkage differentials and interest that were added prior to the issuance date of the order to commence proceedings;
- (2) Linkage differentials and interest that were added as of the issuance date of the order to commence proceedings and until the payment of the secured debt, as stated in section 243(c);

(b) If the realization of an encumbered asset was completed and the debt claim of the secured creditor was not decided yet, the trustee shall be entitled to withhold the proceeds obtained from the realization until a decision in the debt claim is made, or demand a security from the secured creditor as a condition for the transfer of the proceeds to his possession.

Article B: A creditor who owns an asset subject to retention of title

An asset subject to retention of title

251. An asset subject to retention of title is an asset in respect of which all of the following hold true:

- (1) The asset was sold to the debtor and delivered to his possession, prior to the issuance of the order to commence proceedings;
- (2) The seller retains title in the asset, in accordance with a sale agreement, until the consideration is paid in respect whereof;
- (3) The provisions of section 2(b) of the Pledge Law shall not apply to the sale transaction.

Restriction on transfer of possession when the business of the debtor is operated

252. (a) If an order to commence proceedings was issued and the Court ordered with respect to a debtor that is a corporation – on the operation of the corporation for its financial rehabilitation, or if the Superintendent ordered with respect to a debtor that is a natural person – on the operation of his business pursuant to section 157, the owner of an asset that is subject to retention of title will not receive possession in the asset as a result of failure to pay the consideration in respect whereof by the debtor, however only after obtaining the approval of the Court.

(b) The Court will approve the delivery of possession to the owner of an asset that is subject to retention of title if one of the following holds true:

- (1) The asset does not ensure proper protection to its owner and no other manners for ensuring such protection were set out as said;
- (2) The asset is not required for the financial rehabilitation of a debtor that is a corporation or for the purpose of maintaining its business as an operating business of a debtor that is a natural person.

Article C: A creditor who holds a lien

Lien

253. A creditor who has a lien with respect to any of the assets of the insolvency estate in respect of a past debt of the debtor shall be deemed as if the asset is encumbered in his favor as a security for the said debt as of the issuance date of the order to commence proceedings; the provisions of this Law that apply to a secured creditor will apply to such creditor, *mutatis mutandis* as stated in this Article.

Authority to order the delivery of an asset subject to a lien

254. (a) The Court shall be entitled to order to a creditor who holds an asset of the assets in the insolvency estate in respect of which he has a right of lien to transfer the asset to the trustee, provided that all of the following hold true:

- (1) The Court ordered, with respect to a debtor that is a corporation, on its operation for the purpose of its financial rehabilitation and the asset is required for such rehabilitation as said, or the Superintendent ordered with respect to a debtor that is a natural person, on operation of his business, pursuant to section 157, and the asset is required for the purpose of preserving the business of the natural person as an active business;

- (2) The creditor received adequate protection.

(b) If the asset in respect of which there is a lien has a document that the trustee requires for the insolvency proceedings, the Court shall be entitled to order its delivery to the trustee even if the conditions set out in sub-section (a) do not hold true, and the debt in respect of which the lien applies up to the amount of the customary consideration for the preparation of the document or in the manner ordered by the Court, shall be deemed as insolvency proceeding expenses; the provisions of this sub-section shall not apply to a document that is a security, as meant by this term in the Companies Law, or a note, as meant by this term in the Notes Ordinance.

Article D: A creditor with a right of setoff

Setoff

255. A creditor shall be entitled to offset a past debt owed to him by the debtor against a past debt he owes to the debtor, according to their value on the issuance date of the order to commence proceedings, and file a debt claim with respect to the balance, if one of the following holds true:

- (1) The debts of the debtor and the creditor are interconnected;
- (2) Taking mutual debts and reliance on the right of setoff are part of the ordinary course of business of the debtor or the creditor, and the past debt that the creditor wishes to offset accrued within the framework of his mutual business with the debtor;
- (3) The debts can be offset in accordance with the provisions of the Setoff of Taxes Law 5740-1980, or pursuant to sections 312 or 315 of the National Insurance Institute Law.

Notice on a right of setoff

256. A creditor with a right of setoff will notify the trustee regarding the existence of the right or the exercising of the right in 30 days as of the date he became aware of the issuance of the order to commence proceedings; the Minister will lay down instructions regarding the particulars that will be included in the setoff notice and the documents attached thereto.

Part E: Status and rights of creditors

Status of creditors

257. (a) When exercising their authorities and filling their position in accordance with the Law the Court, the Superintendent and the trustee will take into consideration, to the extent possible, the status of the secured and non-secured creditors.

(b) The status of creditors other than secured creditors will be decided in the creditors' meeting or in the creditors' committee; in the event of discrepancy between the position of the creditors' meeting and the position of the creditors' committee, the position of the meeting shall take precedence.

(c) The Court may decide on the type of the matters in which the trustee will not decide after it afforded to the creditors' committee to present its position with respect to these matters.

Right to inspection of documents

258. (a) In insolvency proceedings of a corporation, the Court may permit a creditor to inspect the documents of the corporation or another document held by the trustee, if it found that this is justified under the circumstances of the case and after it took into consideration the infringement of the privacy of the persons whose personal information is mentioned in the documents and the Court may lay down terms and restrictions with respect to the inspection of the information and use thereof.

(b) In insolvency proceedings of a natural person, the Superintendent shall be entitled to permit to a creditor to inspect a document held by the trustee if he found that this is justified under the circumstances of the case and after it took into

consideration the infringement of privacy of the person mentioned in the document; for the purpose of this matter the Superintendent will refer to items of information in respect of which the natural person stated that they include sensitive personal information, pursuant to section 107(b) or 117(b), and the Superintendent shall be entitled to lay down terms and restrictions regarding the inspection of the information and use thereof.

(c) The provisions of this section shall not apply to information that was provided to the Superintendent from a banking corporation or the Tax Authority, in accordance with the provisions of section 50 or 150.

(d) The provisions of this section shall be without prejudice to the provisions of section 152(c) or 281(e) regarding the transcripts of an investigation or an inquiry conducted by the Superintendent.

Right of a creditor to apply to the Court 259. A creditor may apply to the Court and request from the Court to decide in any question related to his rights in the insolvency proceedings.

Convening a creditors' meeting 260. (a) The trustee shall be entitled to convene a creditors' meeting at any time for the purpose of hearing the position of the creditors.

(b) The trustee will convene a creditors' meeting, in accordance with the instructions set forth by the Court or the Superintendent, or on application of the creditors' committee or on application of creditors holding jointly no less than 25% of the value of the debt claims, for the purpose of reporting to the meeting about his actions or for the purpose of hearing the position of creditors.

First creditors' meeting 261. (a) In insolvency proceedings of a corporation, the Superintendent will convene a first creditors' meeting in 30 days as of the issuance date of the order to commence proceedings or on any other date as ordered by the Court, unless the Court or the Superintendent decided that, under the circumstances of the case, the convening of such meeting will not benefit the proceedings.

(b) In insolvency proceedings of a natural person the trustee shall be entitled to convene a first creditors' meeting if he is of the opinion that this will benefit the proceedings.

(c) Up to seven days prior to the date of convening the first meeting, the trustee will prepare a preliminary report regarding the financial status of the debtor and the actions that the trustee performed until the date of convening the meeting; the report

will be made available for the inspection of the creditors in the manner prescribed by the Superintendent.

(d) In the first meeting the creditors will decide on the scope of their involvement in the insolvency proceedings.

Procedures of creditors' meeting

262. (a) A creditor other than a secured creditor who filed a debt claim in accordance with the provisions of this Law shall have voting rights in the creditors' meeting based on the value of the debt claim he filed.

(b) If there is a concern that the amount stated in the debt claim that a creditor filed exceeds the amount of the debt the creditor actually credits, and that the amount was set for the purpose of affecting his voting right, the trustee shall be entitled to examine the claim for the purpose of determining the voting right of the creditor.

(c) A decision in the creditors' meeting will be adopted by the voters in the meeting holding jointly the majority of the debt claims; "voters" for the purpose of this matter – except for those who abstained in the vote.

(d) A creditor will exercise the voting right in a creditors' meeting in good faith and in customary manner and will avoid abusing his power.

(e) The Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the work procedures of the creditors' meeting, including instructions regarding the voting right in the creditors' meeting and regarding voting with a proxy.

Appointment of a creditors' meeting

263. (a) The Court may appoint a creditors' meeting that will represent the position of creditors other than secured creditors and that will act for the purpose of promoting their interest in the insolvency proceedings (in this part – the Creditors' Committee).

(b) The members in the Creditors' Committee will be creditors or anyone acting on their behalf and their number will not exceed five, unless otherwise instructed by the Court.

(c) The Creditors' Committee will have proper representation of the different classes of creditors; the Court may change the composition of the Committee as decided by the creditors' meeting if it found that it does not adequately represent the different classes of creditors.

(d) The first meeting of the Creditors' Committee will be convened in 30 days as of the date of its appointment or on another date as decided by the creditors' meeting.

(e) The Minister shall be entitled to lay down instructions regarding the processes of work of the Creditors' Committee; the Creditors' Committee will lay down the procedures of its work, to the extent that these were not laid down by the Minister.

Hearing the position of
the creditors' committee

264. (a) The Creditors' Committee shall be entitled to present its position to the trustee, to the Court or to the Superintendent with respect to any matter within the framework of the insolvency proceedings.

(b) If a Creditors' Committee was appointed, the trustee will decide with respect to the following matters, only after he afforded to the Creditors' Committee an opportunity to present its position within the period of time the trustee will order under the circumstances of the case and for the proper and efficient management of the proceedings:

- (1) A claim or defense in a legal proceeding in the name of the debtor;
- (2) The employment of a person who will assist the trustee in conduct the insolvency proceedings;
- (3) Pledging an asset from the assets in the insolvency estate;
- (4) Taking new credit;
- (5) A settlement with a creditor or a debtor of the debtor in connection with the amount of the debt and the manner of its payment that has a material effect on the scope of assets of the insolvency estate;
- (6) Payment of debt to a specific class of creditors;
- (7) Any matter in respect of which the Court decided, pursuant to section 257(c), that the trustee should afford to the Creditors' Committee an opportunity to present its position in respect whereof;
- (8) Any other matter prescribed by the Minister.

(c) The Court or the creditors' meeting shall be entitled to release the trustee in advance from his duty to hear the position of the Creditors' Committee before he decides in one or more of the matters enumerated in sub-section (b).

(d) If a Creditors' Committee was appointed, the Court will decide on the remuneration paid to the trustee only after it adopted to the Creditors' Committee an opportunity to present its position.

(e) The secured creditors will also be afforded an opportunity to present their position in any matter in which it is necessary to afford an opportunity to the Creditors' Committee to present its case pursuant to sub-sections (b) and (d).

Demanding information by the Creditors' Committee and a secured creditor

265. (a) In insolvency proceedings with respect to a debtor that is a corporation, the Creditors' Committee shall be entitled to demand from the trustee any information in his possession and that it requires for the purpose of performing its functions.

(b) If the trustee is of the opinion that information that the Creditors' Committee demanded from him is unnecessary to the Creditors' Committee for the purpose of performing its functions, or that it might harm a corporation, infringe the privacy of a person or harm the insolvency proceedings, he may apply to the Court and request to be released from the communication of such information; the Court may grant such an exemption as said or lay down conditions for the purpose of communicating such information as said.

(c) In insolvency proceedings with respect to a debtor that is a natural person, the Superintendent shall be entitled to order to the trustee to provide information to the Creditors' Committee, following its request, if he found that this is justified under the circumstances of the case and after he took into consideration the infringement of privacy associated therewith, and shall be entitled to lay down conditions and restrictions regarding the inspection of the information and use thereof.

(d) Any information that the Creditors' Committee is entitled to demand from the trustee under this section may also be demanded by a secured creditor with respect to information related to the debt owed to him by the debtor.

Part F: The Superintendent of Insolvency and Financial Rehabilitation Proceedings

Appointment of the Superintendent of Insolvency and Financial Rehabilitation Proceedings
The Superintendent – a civil servant

266. (a) The Minister will appoint the Superintendent of Insolvency and Financial Rehabilitation Proceedings.

(b) A notice regarding the appointment of the Superintendent will be published in the Official Gazette.

267. The Superintendent will be a civil servant, and the laws applicable to civil servants will apply to the Superintendent.

Duties of the Superintendent

268. The Superintendent shall be responsible for maintaining the propriety, efficiency, and fairness of the proceedings in accordance with this Law and for

observing the public interest in these proceedings, and in this regard the Superintendent:

- (1) will oversee the conduct of the trustees;
- (2) will conduct the insolvency proceedings of natural persons pursuant to Part C: Insolvency proceedings in respect of a natural person;
- (3) will collect information regarding the insolvency proceedings for the purpose of conducting research and analysis.

Authorities of the trustee are conferred on the Superintendent

269. Any authority conferred on the Superintendent under this Law shall also be conferred on the Superintendent.

The Superintendent as a party to proceedings

270. (a) The Superintendent will be a party to any proceeding conducted in court within the framework of the proceedings under this Law, and shall be entitled to present his position in each proceeding as said.

(b) The Court will not hold a hearing in a proceeding that commenced under this Law however only after it saw that a summons was served to the Superintendent.

The authority to inquire the circumstances of insolvency

271. The Superintendent shall be entitled to inquire the circumstances that led the debtor to a state of insolvency, including the conduct of the debtor, and with respect to a debtor that is a corporation – also of an office holder or controlling shareholder therein, and report to the Court about the same.

Instructions of the Superintendent

272. The Superintendent shall be entitled to give to the trustees general instructions regarding the performance of their duties and the exercising of their authorities under this Law.

Authority to demand information from a trustee

273. The Superintendent shall be entitled to demand from the trustee to provide him any information that the Superintendent requires for the purpose of performing his duties and order on the manner of providing such information as said.

Investigation regarding the conduct of a trustee

274. (a) If the Superintendent is concerned that a trustee does not perform his duties properly, the Superintendent will conduct an investigation for the purpose of this matter, will report about this investigation to the Court and will recommend to the Court about the proper course of action that should be taken.

(b) A debtor that is a natural person or a creditor shall be entitled to apply to the Superintendent and request from the Superintendent to conduct an investigation pursuant to this section.

Supervising records and reports of the trustee	275. The Superintendent will supervise the records that the trustees keep and the reports that the trustees submit and will audit them.
Application to the Court for directions	276. The Superintendent shall be entitled to apply to the Court and request directions in anything related to the performance of his duties and exercising his authorities under this Law.
Providing assistance to the Superintendent in performing his duties	277. (a) The trustee will assist to the Superintendent, to the extent required, for the purpose of performing his duties and exercising his authorities. (b) The debtor will assist the Superintendent and cooperate with the Superintendent to the extent required for the purpose of performing his duties and exercising his authorities.
Employees and representatives of the Superintendent	278. (a) The Superintendent shall be entitled to perform his duties and exercise his authorities by himself or by the civil servants who are subordinated to him. (b) Notwithstanding the provisions of sub-section (a), the authorities of the Superintendent under sections 105, 123, 125, 129(a) and (b), 139(a), 143, 156(e), 169, 170(c) and 179(a)(1) shall be conferred only on the civil servant that the Superintendent authorized, and who is a lawyer with five years of experience. (c) Notwithstanding the provisions of sub-section (a), the Superintendent shall be entitled to perform any of his duties or exercise any of his authorities except for the authorities pursuant to sub-section (b), also by anyone other than a civil servant (in this section – the Representative on behalf of the Superintendent) and pay him remuneration. (d) The Representative on behalf of the Superintendent will act in accordance with the instructions of the Superintendent and under his supervision, however such actions or the payment of his remuneration pursuant to this sub-section shall not give rise to employer-employee relationship between the Representative and the State. (e) The Superintendent may, prior to the appointment of the Representative on behalf of the Superintendent or thereafter, demand that the Representative will pledge assets or will provide a security for the purpose of ensuring the performance of his duties and obligations, and may, at any time, demand from the Representative an additional security or release a security that was provided, in whole or in part. (f) The Representative on behalf of the Superintendent shall be deemed as a civil servant with respect to the following enactments:

- (1) The Public Service (Gifts) Law 5740-1979;
- (2) The Penal Law – the provisions relating to civil servants;
- (3) The Civil Service Law (Restrictions after Retirement), 5729-1969;
- (4) The Knesset Election Law [Consolidated Version], 5729-1969;
- (5) The Civil Service Law (Limitation on Party Activity and Fundraising) 5719-1959;
- (6) The Evidence Ordinance [New Version], 5731-1971;
- (7) The Civil Service Law (Discipline), 5723-1963, *mutatis mutandis*.

Part G: Authorities of the Court

General authority

279. (a) The Court is authorized, subject to the provisions of this Law, to decide in any question of law or fact that arises in the insolvency proceeding heard before it, or if it found that a decision of such question is required for the purpose of expediting the proceedings as said, with the exception of a decision concerning adjudication in criminal or administrative proceedings, subject to the provisions of section 31.

(b) The Court hearing an insolvency proceeding will not be limited in exercising its authority as a result of an order issued by another court, and its decisions will not be applied however only in the manner laid down in this Law.

(c) If an order to commence proceedings was issued, the Court may order that any claim that the debtor filed or that was filed against the debtor, and that is pending in another court and in respect of which a stay of proceedings applies, pursuant to Chapter H: Stay of proceedings, of Part B, and with respect to a natural person – pursuant to section 121, shall be referred to it.

(d) The Court may repeat and examine of any order that the Court issued pursuant to its authority under this Law, revoke or modify such an order as said, if the circumstances changed or if new facts justifying such repeated inspection were discovered.

(e) The Court may accept evidence verbally or in an affidavit with respect to any matter; the Minister may lay down instructions for the purpose of this matter.

Consolidation of proceedings in respect of a corporation and a natural person under this Law

280. The Court hearing proceedings of a corporation under this Law, shall be entitled to add to these proceedings other proceedings of a natural person that is a member in the corporation, an office holder in the corporation or a guarantor of the debts of the corporation, that are heard in another court, if it found that this will expedite the proceedings, and it is authorized to act in such manner as said even if an

application as said was filed at the time of commencement of the proceedings with respect to a corporation.

Inquiry in Court

281. (a) If the Court had reasonable grounds to assume that a person has information regarding the assets, expenses, debts, liabilities or creditors of a debtor in respect of whom insolvency proceedings are conducted or regarding his financial conduct, or that a person holds an asset or a document of such a debtor as said or owes him a debt, it may order the said person to appear before it for an inquiry, if it deems that such an inquiry is necessary for the insolvency proceedings; the Court will have such inquiry authorities under this sub-section also with respect to the debtor.

(b) The Court will warn the inquired person prior to his inquiry, in a language that he understands, that he shall be obligated to tell the truth or and failure to do so shall subject to him to statutory penalties; the inquired person will answer by saying that he understood the warning and that he undertakes to act in such manner as said.

(c) The Court may present to the inquired person any question it deems fit; the inquired person shall be obligated to answer any question asked by the Court.

(d) The Court may conduct the inquiry by the trustee, in the manner and in accordance with the conditions it shall prescribe.

(e) An inquiry that was conducted by the trustee pursuant to sub-section (d) will be documented in a protocol that will be provided to the inquired person, however the trustee may, if he found that this is required for the inquiry, delay the delivery of such protocol until the completion of the inquiries relating to the insolvency proceedings.

(f) The provisions of section 47 of the Evidence Ordinance [New Version], 5731-1971 shall apply to an inquiry conducted under this section; if the inquiry was conducted by the trustee pursuant to sub-section (d), and the inquired person asked to avoid the admission of evidence pursuant to the provisions of section 47(a) of the said Ordinance, the Court will decide in such a request as said, and the provisions of section 47(b) of the said Ordinance will apply for the purpose of this matter.

(g) An inquired person shall be entitled to be represented by a lawyer.

A subpoena or delivery order

282. At the request of the trustee or the Superintendent, the Court may proactively issue an order –

(1) ordering whoever was summoned to an inquiry or an investigation before the Superintendent or the trustee – to appear before the Superintendent, the trustee, or the Court;

(2) ordering whoever was required to deliver an asset, document, or information to the trustee or to the Superintendent – to deliver them to the trustee, to the Superintendent or to the Court, or appear before any thereof.

Authority to order seizure

283. At the request of the trustee or the Superintendent, the Court may proactively issue an order ordering a policeman to seize an asset or a document of a debtor in respect of whom insolvency proceedings are conducted, and that is in the possession of the debtor or in the possession of another person.

Departure prohibition order

284. (a) Without prejudice to the provisions of sections 142 and 161(b)(4), the Court may order the prohibition of the departure from the country of a debtor against whom insolvency proceedings are conducted, and if the debtor is a corporation – of a member in the corporation or whoever was an office holder in the corporation, for a period ordered by the Court, if the Court had reasonable grounds to assume that the said person is about to leave the country and that his departure might hinder the payment of the debts of the debtor or cause actual harm to the inquiry of the financial status of the debtor and the circumstances that resulted in his status; if the person is a foreign resident, the Court will not order on prohibition of his departure from the country however only in extraordinary circumstances and for special reasons that will be noted.

(b) The Court may prohibit ex parte the departure from the country of a person, as stated in sub-section (a), if it was convinced that the adjournment of the hearing until the hearing is held in the presence of the parties will frustrate the issuance of the order; if a departure prohibition order was issued ex parte, the Court will hold a hearing in the presence of the parties at the earliest opportunity and no later than 14 days as of the issuance date of the order.

(c) Instead of ordering the prohibition on departure from the country of such a person as stated in sub-section (a), the Court may stipulate the departure on the provision of a security to the satisfaction of the Court.

Authority to issue warrant of arrest

285. The Court may order the arrest of a debtor that is a natural person in respect of whom insolvency proceedings are conducted, and in case of a corporation – of a controlling shareholder therein, for a period that will not exceed ten days, if it found

that the arrest is required for the purpose of preventing from him to harm the insolvency proceedings, delay such proceedings or hinder such proceedings in any other manner, or for the purpose of preventing the dissipation of an asset or a document of the debtor, or its concealment or destruction, and it was convinced that there is no alternative measure that can be applied for the purpose of preventing the said actions.

Revoking an order to commence proceedings when the debtor is not insolvent

286. (a) The Court may revoke an order to commence proceedings if it found that the debtor is not in a state of insolvency or if the order does not assist in preventing its insolvency.

(b) The Court may stay the revocation of the order to commence proceedings for the purpose of permitting repeated imposition of restrictions or attachments that were revoked after issuance of the order, pursuant to sections 25 or 121.

(c) The revocation of an order to commence proceedings shall be without prejudice to the effect of a sale, transfer, payment, or any other legal action that were lawfully performed prior to the revocation.

(d) If the Court revoked an order to commence proceedings with respect to a debtor that is a corporation, the trustee will send immediately a copy of the decision to the Registrar, and the Registrar will update the register accordingly; a notice regarding the revocation of the order will be published in the manner and on the date prescribed by the Minister.

Part H: Liability of an office holder and an officer of a corporation that is insolvent

Definitions – Part H

287. In this Part –

“Director” – a director as defined in the Companies Law or whoever fills a similar position in a partnership;

“General Manager” – as meant by this term in the Companies Law;

“Fraudulent management of a corporation” – management of the corporation for the purpose of deceiving its creditors.

Liability of director or general manager who failed to act for the purpose of minimizing the scope of insolvency

288. (a) If a Director or a General Manager knew or had to know that the corporation is in a state of insolvency and failed to apply reasonable measures for the purpose of diminishing its scope, the Court may, on application of the trustee or the Superintendent, and after issuing the order to commence proceedings with respect to the corporation, order that the Director or the General Manager shall be held liable

towards the corporation for the damage caused to the creditors of the corporation as a result of his omission.

(b) For the purpose of this section, it shall be presumed that a Director or a General Manager applied reasonable measures for the purpose of diminishing the scope of insolvency of the corporation if he took measures for the purpose of assessing the financial position of the corporation and acted so that the corporation will apply one of the following measures:

- (1) Receiving assistance from professionals specializing in corporate rehabilitation;
- (2) Conducting negotiations with the creditors of the corporation for the purpose of reaching a debt arrangement with them;
- (3) Commencing insolvency proceedings.

(c) Notwithstanding the provisions of sections 259 and 260 of the Companies Law, a company may not release a Director or a General Manager from his liability under this section or lay down a provision in its Articles that enables the indemnity of a Director or a General Manager in respect of the breach of his duty pursuant to sub-section (a).

(d) A Director or a General Manager shall not be held liable under this section if he proved that he relied reasonably and in good faith on information according to which the corporation is not in a state of insolvency.

Breach of duty by an officer of a corporation

289. (a) If the Court found that an officer in a corporation or whoever was an officer breached a duty towards the corporation that gives rise to grounds for obliging him to pay damages, payments or return an asset to the corporation it may, on application of the trustee or the Superintendent, and after issuing an order to commence proceedings in respect of the corporation, order to the said person to compensate, pay or return the said asset to the corporation.

(b) Notwithstanding the provisions of sub-section (a), such an application as stated in the said sub-section and that is filed against the trustee, against whoever acted on his behalf or against the receiver, might also be filed by the debtor or a creditor of the corporation.

(c) For the purpose of this section, “officer” in a corporation – the corporation entrepreneur, as meant by this term in the Companies Law, an officer in the corporation, the trustee or anyone who acted on his behalf and a receiver.

Fraudulent management
by an officer

290. If the Court found that anyone who was an officer in a corporation participated knowingly in the fraudulent management of the corporation in the period that preceded the date of issuance of the order to commence proceedings with respect to the corporation, he may, on application of the trustee or the Superintendent, order one or more of the following in respect whereof:

(1) To order that the officer shall be held liable for the damage caused to the corporation as a result of the fraudulent management of the corporation;

(2) To disqualify the officer from acting as an officer in any corporation for a period as ordered by the Court and that will not exceed five years.

Inquiry regarding
fraudulent management
by an office holder

291. If a suspicion regarding the fraudulent management of a corporation by officers therein during the period that preceded the issuance date of the order to commence proceedings arose while conducting the insolvency proceedings, the Court may order the Superintendent or the trustee to inquire this suspicion and submit his findings to the Court.

Applicability in respect
of a person who acted de
facto as a director

292. The provisions of this Part shall also apply to whoever acted de facto as a director, including in contravention of the provisions of section 106 of the Companies Law.

Part I: Cross-border insolvency proceedings

Chapter A: Definitions and applicability

Definitions – Part I

293. In this Part –

“The Court” – as defined in section 4, and if the conditions set out in the said definition are not satisfied – the District Court or the Magistrates Court of Jerusalem, as the case may be;

“Foreign officer” – whoever was authorized within the framework of a foreign proceeding to conduct the rehabilitation or the winding-up proceedings of the debtor, including whoever was appointed as said temporarily or whoever was appointed within the framework of the foreign proceeding to exercise the authorities conferred on a foreign officer under this Part;

“Recognition” of a foreign proceeding – recognition of the foreign proceeding by the Court pursuant to the provisions of Chapter C: Recognition of a foreign proceeding;

“Foreign proceeding” – a judicial or administrative proceeding that is conducted in a foreign country, in accordance with insolvency laws, and in which the relationships of the debtor with his creditors are settled jointly, including temporarily, and the assets and the affairs of the debtor are under the responsibility or the supervision of a competent foreign authority for the financial rehabilitation of the debtor or its winding-up;

“Secondary foreign proceeding” – a foreign proceeding other than a primary foreign proceeding that is conducted in a foreign country in which the debtor maintains financial activity that includes trading of goods or the performance of services, and that involves the employment of manpower and that is not casual;

“Primary foreign proceeding” – a foreign proceeding conducted in a foreign country where the principal place of business of the debtor is located; the registration place of a debtor that is a corporation or the place of residence of a debtor that is a natural person shall be deemed as the place of his principal place of business, unless otherwise proven;

“Foreign country” – including a territory outside Israel other than a state, that is enumerated in the Third Schedule;

“Foreign creditor” – a creditor from a foreign country;

“Competent authority in Israel” – the Court or the Superintendent, and for the purpose of insolvency proceedings in respect of a natural person with small debts – also the Execution Registrar;

“Competent foreign authority” – a judicial authority or any other authority that is authorized to supervise a foreign proceeding or that is responsible for conducting such a proceeding.

Applicability – Part I

294. The provisions of this Part will apply to any of the following:

- (1) A competent foreign authority or a foreign officer asks for assistance from the competent authority in Israel or from a trustee in connection with a foreign proceeding;
- (2) The competent authority in Israel or a trustee asks for assistance from a foreign competent authority or from a foreign officer, in connection with insolvency proceedings conducted in Israel;

(3) Foreign proceedings and insolvency proceedings in Israel are conducted concurrently with respect to the same debtor or a number of foreign proceedings are conducted concurrently with respect to the said debtor;

(4) Creditors or other interested parties in a foreign country or a foreign officer have interest in commencing insolvency proceedings in Israel or participating in such proceedings.

Chapter B: Access of foreign officer and creditors to competent authority in Israel

Application of a foreign officer to the competent authority in Israel

295. A foreign officer shall be entitled to apply directly to the competent authority in Israel.

Limited jurisdiction

296. An application by a foreign officer to a competent authority in Israel in accordance with the provisions of this Part shall not, in and of itself, confer on the competent authority jurisdiction over the foreign officer or the assets or the business conducted by the debtor however solely for the purpose for which the application was made.

Commencement of insolvency proceedings by a foreign officer and participation in the proceedings

297. (a) A foreign officer shall be entitled to file in court an application for an order to commence proceedings with respect to the debtor in respect of whom the foreign proceeding is conducted, if the conditions set out in this Law for the purpose of filing an application for an order to commence proceedings by a creditor are have been fulfilled.

(b) A foreign officer shall be entitled to be a party to insolvency proceedings conducted with respect to the debtor in respect of whom the foreign proceeding is conducted, if the Court recognized the foreign proceeding.

Status of foreign creditors in insolvency proceedings

298. (a) The status of foreign creditors and their rights for the purpose of commencing insolvency proceedings and participating in such proceedings shall be identical to the status and the rights of creditors from Israel.

(b) The provisions of sub-section (a) shall not affect the rank of the foreign in the payment order, provided that the debt of a foreign creditor will not be ranked in a lower position than general debts, unless he was ranked in such a rank if he was a creditor from Israel.

Notifying foreign creditors about decisions

299. (a) If this Law prescribes a duty to notify creditors regarding a decision that was adopted by the competent authority in Israel within the framework of insolvency proceedings, including by way of publishing the decision, each foreign creditor will

of a competent authority
in Israel

receive a specific notice regarding such a decision, unless the competent authority in Israel ordered on another manner of notifying the foreign creditors and that is appropriate under the circumstances of the case.

(b) A notice regarding the issuance of an order to commence proceedings that will be delivered to creditors pursuant to sections 26, 106 or 116(c) will include also the following, with respect to a foreign creditor:

- (1) The date for filing a debt claim and the address to which such a claim will be delivered;
- (2) A demand from a secured creditor under this Law to file a debt claim with respect to the debts of the secured creditor.

Chapter C: Recognition of a foreign proceeding

Application for
recognition of a foreign
proceeding

300. (a) A foreign officer shall be entitled to file in Court an application for recognition of a foreign proceeding (in this Part – Application for Recognition).

(b) The foreign officer will attach the following documents to an Application for Recognition:

- (1) An affidavit prepared by the foreign officer, that provides information regarding the foreign proceedings he knows, and that are conducted against the debtor;
- (2) One of the following:
 - (a) A copy of the decision of the competent foreign authority to commence the foreign proceeding and appoint the applicant as a foreign officer;
 - (b) A document on behalf of the foreign competent authority confirming that the foreign proceeding is conducted and the appointment of the applicant as a foreign officer;
 - (c) To the extent that the foreign officer does not have documents as stated in sub-paragraph (a) or (b), other evidence that constitutes for the Court sufficient proof confirming that the foreign proceeding is conducted and that the applicant was appointed as a foreign officer.

Recognition of a foreign
proceeding

301. (a) If an Application for Recognition of a foreign proceeding was filed in Court, the Court will recognize the foreign proceeding as a primary or secondary foreign proceeding, if it was convinced that the following hold true;

- (1) The proceeding is a primary or secondary foreign proceeding;
- (2) The person filing the Application for Recognition is a foreign officer;

(b) For the purpose of making a decision, the Court may rely on the documents that were submitted to it pursuant to section 300(b).

(c) The Court will make its decision in the Application for Recognition at the earliest opportunity.

Effects of the recognition of a primary foreign proceeding

302. (a) (1) If the Court recognized a primary foreign proceeding, it shall grant the following relief:

(a) Stay of the payment of the past debts of the debtor and stay of proceedings against the debtor;

(b) Stay of any transfer of a right in an asset of the debtor or encumbrance of that asset;

(2) Stay of the actions and stay of proceedings pursuant to paragraph (1) shall be in a scope and for a period that would have applied if an order to commence proceedings had been issued against the debtor;

(3) The provisions of this sub-section shall be without prejudice to the right to commence insolvency proceedings against the debtor.

(b) In addition to the provisions of sub-section (a), the Court may, after it recognized a primary foreign proceeding and on application of the foreign officer, grant any relief that is required for the purpose of protecting the creditors or preserving the value of the debtor's assets, and in this regard the Court may –

(1) exercise any authority conferred on the Court under this Law in insolvency proceedings;

(2) empower the foreign officer or any other person to manage the assets of the debtor in Israel, in whole or in part;

(3) order the commencement of an inquiry and provision of information regarding the assets of the debtor, his conduct, business, obligations and liabilities, subject to the restrictions set out in this Law;

(4) grant any other relief that can be granted under this Law in insolvency proceedings.

(c) If the Court recognized a primary foreign proceeding, the Court may, on application of the foreign officer, empower the office holder or another person to realize the assets of the debtor that are in Israel, in whole or in part, and act for the purpose of their distribution, provided that it was convinced that this will not harm creditors in Israel.

Effects of the recognition of a secondary foreign proceeding	303. If the Court recognized a secondary foreign proceeding, the Court may, on application of the foreign officer, grant any relief as stated in section 302, if it was convinced that the relief was required with respect to an asset that should be managed within the framework of the secondary foreign proceeding, or with respect to information that is required for that proceeding, and that the relief is required for the purpose of protecting the creditors or preserving the value of the debtor's assets.
Interim reliefs	304. (a) If an Application for Recognition was filed in Court, the Court may, on application of the foreign officer, and prior to making a decision in the Application, grant an interim relief ordering any of the reliefs as stated in section 302, or any other interim relief that may be granted pursuant to sections 20 or 119, as the case may be (in this Part – Interim Relief). (b) The provisions of sections 20(b) and (d) and 21 shall apply to the grant of an Interim Relief under this section. (c) The Court may dismiss an application for an interim relief under this section if the grant of the relief can affect a primary foreign proceeding.
Provisions regarding an interim relief or a relief granted at the discretion of the Court	305. (a) The Court will not decide regarding the grant of an Interim Relief, the grant of a relief pursuant to sections 302(b) or 303 (in this Part – Discretionary Relief) or with respect to a change of such a relief as said, however only after it was convinced that its decision provides adequate protection for the interests of all creditors, the debtor and the other interested parties in the proceeding. (b) The Court may stipulate the guarantee of the Interim Relief or a Discretionary Relief if it found that this is justified under the circumstances of the case. (c) Whoever considers himself aggrieved as a result of the guarantee of the Interim Relief or a Discretionary Relief may apply to the Court and request to change or revoke the said relief.
Participation of a foreign officer in a proceeding to which the debtor is a party	306. If the Court recognized a foreign proceeding under this Chapter, the foreign officer shall be entitled to be a party to any proceeding to which the debtor is a party and that can affect the foreign proceeding, except for proceedings conducted pursuant to section 31.
Update on changes	307. A foreign officer will notify the Court, at the earliest opportunity, regarding any material change that occurred in the foreign proceeding, as of the filing date of

the Application for Recognition, including a change concerning his appointment, and another foreign proceeding relating to the debtor of which he became aware.

Chapter D: Cooperation with a foreign competent authority and a foreign officer

- Cooperation of competent authority and trustee in Israel with foreign competent authority and foreign officer
308. (a) The competent authority in Israel will cooperate with a foreign competent authority and with a foreign officer to the maximum extent possible, directly or by the trustee, with respect to any of the matters as stated in section 294.
- (b) The trustee will cooperate with a foreign competent authority and with a foreign officer to the maximum extent possible with respect to any of the matters as stated in section 294, within the framework of his authorities under a foreign law, and subject to the instructions set forth by a competent authority in Israel.
- Direct communication
309. (a) The competent authority in Israel shall be entitled to apply directly to a foreign competent authority and to a foreign officer, and in this regard request from them directly information or assistance in connection with insolvency proceedings.
- (b) The trustee may, within the framework of his authorities and subject to the instructions of the competent authority in Israel, apply directly to a foreign competent authority and to a foreign officer, and in this regard request from them directly information or assistance in connection with insolvency proceedings.
- Forms of cooperation
310. For the purpose of promoting the cooperation as stated in sections 308 and 309, the competent authority in Israel shall be entitled, *inter alia* –
- (1) To appoint a person or an entity that will act for the purpose of promoting such cooperation in accordance with its instructions;
 - (2) To lay down the proper manners of communication with a foreign competent authority or a foreign officer;
 - (3) To act for the purpose of coordinating the management of the debtor's assets and his business and supervising them;
 - (4) To act for the purpose of coordinating between foreign proceedings and insolvency proceedings in Israel that are conducted concurrently with respect to the same debtor, or a number of foreign proceedings that are conducted concurrently with respect to the same debtor.

Chapter E: Chapter E: Concurrent proceedings

- Restriction on insolvency proceedings following recognition of a primary foreign proceeding
311. If the Court recognized a primary foreign proceeding, the said restrictions will apply for the purpose of insolvency proceedings with respect to the debtor against whom the primary foreign proceeding is conducted:

(1) No insolvency proceedings will commence against the debtor unless the debtor has assets in Israel;

(2) The insolvency proceedings will be limited to the assets of the debtor that are in Israel or to other assets of the debtor in the manner ordered by the Court, and all to the extent required for the purpose of engaging in such cooperation and coordination as said in Chapter D: Cooperation with a foreign competent authority and a foreign officer.

Recognition of a primary foreign proceeding – presumption of insolvency in insolvency proceedings

312. If the Court recognized a primary foreign proceeding, it shall be presumed that the debtor is under insolvency proceedings with respect to the conditions for filing an application to commence proceedings pursuant to sections 9 or 109; the presumption of insolvency as said may be rebutted.

Relief in insolvency proceedings and in a foreign proceeding conducted concurrently

313. (a) If an Application for Recognition of a foreign proceeding was filed after insolvency proceedings commenced, the Court will not order to grant a relief pursuant to sections 302 to 304 if this can affect the insolvency proceedings.

(b) If insolvency proceedings commenced after an Application for Recognition was filed, the Court will examine the relief it granted pursuant to sections 302 to 304 and will adjust them or revoke them if they can affect the insolvency proceedings.

Reliefs in concurrent foreign proceedings

314. If proceedings are conducted under this Part with respect to a number of foreign proceedings relating to the same debtor, the following provisions shall apply:

(1) If the Court recognized the primary foreign proceeding –

(a) The Court will reexamine an interim relief or the discretionary relief that it granted within the framework of recognition of a secondary foreign proceeding prior to the recognition of the primary foreign proceeding, and shall be entitled to change or revoke it if it found that the relief affects the primary foreign proceeding;

(b) The Court will not grant an interim relief or a discretionary relief within the framework of the recognition of a secondary foreign proceeding after the recognition of the primary foreign proceeding, if it can affect the primary foreign proceeding;

(2) If the Court recognized a secondary foreign proceeding, and afterwards recognized another secondary foreign proceeding, the Court may grant any discretionary relief that is required for the purpose of coordinating the between the proceedings, and the Court may change or revoke a relief it granted for the purpose of performing such coordination as said.

Payment of debts in insolvency proceedings and in a foreign proceeding conducted concurrently

315. (a) A creditor whose debt was partly paid within the framework of a foreign proceeding shall not be entitled to payment in respect of the same debt within the framework of a distribution in insolvency proceedings with respect to the same debtor, as long as the rate of the debt that was paid to other creditors in the same rank in the payment order is smaller than the rate of the debt that was paid to that creditor within the framework of the foreign proceeding.

(b) The provisions of sub-section (a) shall be without prejudice to the rights of a creditor with special payment rights or a creditor with property rights.

Chapter F: Miscellaneous provisions

Public policy exception

316. Notwithstanding the provisions of this Part, the competent authority in Israel shall be entitled to avoid exercising its authority pursuant to this Part, and in this regard avoid recognition of a foreign proceeding pursuant to section 301, and the grant of a relief pursuant to sections 302 to 304, if the exercising of such authority as said affects public policy or it was proven to the Court that one of the following holds true:

- (1) The foreign proceeding was conducted fraudulently;
- (2) The opportunity that was afforded to the debtor to present his case and admit evidence in the foreign proceeding was unreasonable, in the opinion of the Court.

Assistance under another law

317. The provisions of this Part shall be without prejudice to the authority of the competent authority in Israel or the trustee to assist a foreign competent authority or a foreign officer in accordance with the provisions set forth in any law.

Part J: A debt arrangement not within the framework of an order to commence proceedings

Chapter A: Definitions and applicability

Definitions – Part J

318. In this Part –

“Debt arrangement” – an arrangement between a debtor that is a natural person or a corporation and interested parties in the arrangement or their class concerning a change in the payment terms of the debt;

“Interested parties” – in a debt arrangement – the creditors, and with respect to a debtor that is a corporation – also the members in the corporation or their class.

Applicability – Part J

319. The provisions of this part will apply –

- (1) With respect to a corporation – to a debt arrangement that was made in the absence of an order to commence proceedings;
- (2) With respect to a natural person – to a debt arrangement, whether made in the absence of an order to commence proceedings and whether made after the issuance of such an order as said.

(Amendment no. 4 –
Temporary Provision)
5781-2021

Chapter A1: Stay of proceedings for the purpose of formulating a debt arrangement – temporary provision

(Amendment no. 4 –
Temporary Provision)
5781-2021

Article A: Definitions and determining period

Definitions – Chapter
A1 and applicability

319A. (a) In this Chapter –

(Amendment no. 4 –
Temporary Provision)
5781-2021

“Past debt” – as defined in this Law, however the date of the decision on stay of proceedings shall be deemed as the issuance date of the order to commence proceedings;

“Material creditor” – a creditor of a corporation in respect of which one of the following holds true:

- (1) A secured creditor;
- (2) Anyone to whom, on the filing date of the application for stay of proceedings, the corporation owes an amount exceeding NIS 75,000 or more than 10% of the total debts of the corporation other than secured debts, whichever is lower;
- (3) A trustee of one or more series of certificates of indebtedness of a corporation, provided that on the filing date of the application the amount of the balance of the series of certificates of indebtedness does not fall below the amount as stated in paragraph (2);

“Stay of Proceedings” – a stay of proceedings pursuant to Article B or C, as the case may be;

“The Determining Period” – the period as of 5 Nissan 5781 (March 18, 2021) and until the end of 14 of Adar B 5782 (March 17, 2022) or until the expiration of the extension period in the manner prescribed by the Minister pursuant to section 319B.

(b) The provisions of this Chapter will apply to proceedings in respect of which the application for stay of proceedings was filed during the determining period. 319B. The Minister, with the approval of the Constitution Committee, shall be entitled to extend in an order the determining period by two additional periods, each of which will not exceed six months.

Extension of the
determining period
(Amendment no. 4 –
Temporary Provision)
5781-2021

(Amendment no. 4 –
Temporary Provision)
5781-2021

Filing an application for
a stay of proceedings by
a corporation
(Amendment no. 4 –
Temporary Provision)
5781-2021

Article B: Stay of proceedings in respect of a corporation

319C. (a) A corporation in respect of which no order to commence proceedings was issued, may file in Court, during the determining period, an application for stay of proceedings under this Article for the purpose of formulating the debt arrangement with the interested parties therein and its approval.

(b) The party filing the application will include in the application all particulars and documents whose inclusion is required pursuant to sections 8 and 12 in the application to commence proceedings in respect of which the operation of the corporation is requested, and will attach all of the following to the application:

- (1) An initial outline for the debt arrangement;
- (2) A plan in which he will specify the manner of operation of the corporation during the stay of proceedings period, including the projected income from the operation of the corporation and from other sources, the projected expenses for the purpose of operating the corporation, business plan and actions that are required for the purpose of operating the corporation, and all based on the characteristics of the corporation (in this Chapter – Operation Plan);
- (3) A description of the measures for the purpose of financing the expenses in connection with the operation of the corporation until the debt arrangement is approved;
- (4) The annual financial statements for the year 2019, duly audited by an auditor, if any.

Restrictions on the
actions of the corporation
until decision on stay of
proceedings
(Amendment no. 4 –
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319D. A corporation that filed an application for stay of proceedings will not perform an extraordinary transaction or a distribution, as meant by these terms in the Companies Law, or a transaction enumerated in section 270 of the Companies Law, until a decision is made, however only after obtaining the approval of the Court.

Delivery of copy and publication of notice regarding the filing of an application for stay of proceedings
(Amendment no. 4 – Temporary Provision)
5781-2021

319E. (a) The applicant will provide to the Superintendent and to the material creditors of the corporation a copy of the application and the documents attached thereto, in the manner and on the date as ordered by the Court, and will provide the said materials to any interested party in the debt arrangement after receiving his written demand and to any other person in the manner ordered by the Court.

(b) The Superintendent will publish a notice regarding an application for stay of proceedings with respect to a corporation in the internet website of the Ministry of Justice.

Filing an objection to an application for stay of proceedings
(Amendment no. 4 – Temporary Provision)
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319F. A person who might be aggrieved as a result of the stay of proceedings shall be entitled to file an objection to the application in Court in 14 days as of the date of publication of the notice regarding the filing of an application for stay of proceedings; the party filing the objection will deliver a copy of the objection to the applicant and to the Superintendent.

Decision on application for stay of proceedings
(Amendment no. 4 – Temporary Provision)
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319G. (a) The Court will order on stay of proceedings against the corporation if it found that all of the following hold true, unless it found that it is not reasonably possible that the debt arrangement will be approved by the interested parties thereof and the Court, and taking into consideration, *inter alia*, the financial capacity of the corporation based on its financial statements for the year 2019, if any:

- (1) The stay of proceedings is required for the purpose of formulating a debt arrangement;
- (2) There is no reasonable concern that the operation of the corporation during the stay of proceedings will affect the creditors;
- (3) There are measures for the purpose of financing the expenses associated with the operation of the corporation until the debt arrangement is approved;

(b) The Court will not order a stay of proceedings if it found that one of the following holds true:

- (1) There is an actual concern that the corporation acts for the purpose of deceiving its creditors;
- (2) There is an actual concern that the corporation acts for the purpose of removing any of its assets for the purpose of concealing it from its creditors;
- (3) There is an actual concern that the corporation abuses the stay of proceedings.

(c) The stay of proceedings shall be in effect for a period that will not exceed three months, in the manner ordered by the Court; the Court may extend the said period by additional periods that will not exceed cumulatively a period of 30 days, if it found that during these periods it is reasonably possible that the debt arrangement will be completed by the interested parties in the corporation and the Court and that the other conditions set out in sub-sections (a) and (b) hold true.

(d) If the Court ordered on a stay of proceedings, the Court may set a date for filing an application for the approval of the debt arrangement by the interested parties therein, a date for the purpose of convening class meetings for the approval of the debt arrangement and a date for the purpose of presenting the debt arrangement that was approved by the interested parties for the approval of the Court.

(e) The decision regarding a stay of proceedings will be made after hearing the parties, however the Court may stay proceedings after only hearing the corporation, if it was convinced that there is a reasonable concern that a delay in the decision after hearing the parties will frustrate the relief or will cause more serious damage to the corporation; if a decision on stay of proceedings was made ex parte, the Court will hear the parties at the earliest opportunity, and no later than 14 days as of the date of making the decision, and shall be entitled to hold a hearing of the application; the corporation will deliver to its material creditors notice on the decision to stay of proceedings that was given ex parte.

(f) The Superintendent will publish a notice regarding the stay of proceedings in the internet website of the Ministry of Justice.

Stay of proceedings
against a third party
(Amendment no. 4 –
Temporary Provision)
5781-2021

319H. Stay of proceedings will apply only to proceedings against the corporation, however the Court may, under extraordinary circumstances and for reasons that will be noted, stay one or more of the proceedings enumerated in section 29 also against anyone other than the corporation, including an office holder in a corporation, if all of the following hold true:

- (1) The stay of proceedings against the said person is essential for the purpose of formulating and approving the debt arrangement;
- (2) The proceedings against the said person stem from his actions in the corporation or the debts owed by the corporation.

Effects of decision on
stay of proceedings
(Amendment no. 4 –

319I. (a) The following provisions shall enter into force during the stay of proceedings period:

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(1) The past debts of the corporation will not be paid from the assets of the corporation, however the provisions of sections 60, 255 and 256 shall apply with respect to creditors with special payment rights;

(2) The proceedings against the corporation pursuant to the provisions of Chapter E in Part B will be stayed, and the provisions of the said Chapter shall apply, *mutatis mutandis*, and with the following changes have been carried out:

(a) With respect to section 29(2) – the corporation in respect of which stay of proceedings was decided shall be deemed as a Corporation under Operation;

(b) With respect to section 29(4) – an attachment that was imposed on any of the assets of the corporation prior to the decision on stay of proceedings will be canceled if the Court ordered such action;

(c) With respect to section 29(5) – it is impossible to continue or commence a legal proceeding, including a proceeding under this Law, however only after obtaining the approval of the Court for special reasons that will be noted;

(3) The corporation shall be precluded from removing assets in its possession, selling or changing their status or the rights therein, not in the ordinary course of business, however only after obtaining the approval of the Court.

(b) Notwithstanding the provisions of sub-section (a), a decision on stay of proceedings shall not release the corporation from its obligation to observe any provision in accordance with the law, including an administrative decision, except for the obligation to pay a past debt, subject to the provisions of section 31.

(c) The corporation will deliver to the Registrar a copy of the decision on stay of proceedings immediately after such a decision is given; if stay of proceedings expired or was terminated – the corporation will notify the Registrar immediately about the same, the Registrar will inform the public about the stay of proceedings during a state of emergency as a result of the coronavirus, or regarding the end of such a state of emergency.

Formulating a debt
arrangement

319J. After giving a decision on stay of proceedings the corporation will start, promptly, conducting negotiations for the purpose of formulating a debt arrangement.

(Amendment no. 4 –
Temporary Provision)
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Operation of the
corporation during the
stay of proceedings
period (Amendment no. 4
– Temporary Provision)
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319K. If a decision on stay of proceedings was given, the following provisions shall apply to the operation of the corporation:

- (1) The business of the corporation will be operated only for the purpose of facilitating its continued operation as an active business until the debt arrangement is formulated and according to the Operation Plan that was approved;
- (2) The corporation will manage its assets in an expeditious and efficient manner for the purpose of protecting and increasing their value;
- (3) The corporation will not perform an extraordinary transaction or a distribution, as meant by these terms in the Companies Law, or a transaction enumerated in section 270 of the Companies Law however only after obtaining the approval of the Court;
- (4) The Court may order on a prohibition to perform specific transactions, a particular class of transactions or stipulation of the performance of such transactions on the approval of the Court;
- (5) The provisions of section 77 to 79 shall enter into force;
- (6) The Court shall be entitled to permit a corporation to enter into a contract for the purpose of receiving credit that is necessary for the purpose of financing the operations of the corporation during the stay of proceedings period or order on a credit limit that the corporation will be entitled to take for the purpose of financing the activities of the corporation as said, and all for the purposes and under the terms in the manner ordered by the Court (in this paragraph – New Credit); the amounts that are required for the payment of a New Credit shall be deemed as the expenses of the insolvency proceedings, unless otherwise ordered by the Court;
- (7) During the period of stay of proceedings a corporation in respect of which a decision on stay of proceedings was given will state the following by its name in any publication on its behalf that is a proposal to the public to purchase products or services: “Under a stay of proceedings during a state of emergency as a result of the outbreak of the COVID-19 pandemic”;
- (8) The corporation shall be entitled to use an asset encumbered under a fixed charge, an asset encumbered by a floating charge or an asset subject to retention of title, only during the ordinary course of business, and the provisions of sections 61, 63 and 64 shall enter into force;

(9) With regard to rescission of an existing contract to which the corporation is a party, the provisions of sections 66, 68, 69 and 71(c) shall apply, *mutatis mutandis*, with the following changes: the words “the corporation” shall be inserted instead of the words “the trustee”; if the other party to an existing contract has a right to rescind the contract on the grounds of its breach by the corporation, it shall be entitled to request from the Court to order its rescission, and the Court will order as said only if it is of the opinion that one of the following holds true:

(a) The continuation of the performance of the contract is not required for the purpose of enabling the continued existence of the corporation as an active business until a debt arrangement is formulated;

(b) The corporation will not perform its obligations under the contract during the stay of proceedings period; the Court shall be entitled to set the manners for the purpose of ensuring the performance of the obligations under an exist contract as said, including the provision of a security.

Duty to report
(Amendment no. 4 –
Temporary Provision)
5781-2021

319L. (a) The General Manager, and in a corporation that is a partnership – the general partner, and if the general partner is a company – the General Manager of the general partner company, will report promptly to the arrangement administrator, that it interested parties and to the Superintendent regarding a material change in the state if the business or in the financial status of the corporation; the Court may impose the reporting duty on another office holder in the corporation.

(b) The report shall be submitted online, in a dedicated and secure internet website that the corporation will create for the purpose of this matter, or in any other manner as ordered by the Court.

Appointment of an
arrangement
administrator and his
authorities (Amendment
no. 4 – Temporary
Provision) 5781-2021

319M. (a) The Court will appoint an arrangement administrator pursuant to section 326 after the decision on stay of proceedings is given, and the arrangement administrator will act on behalf of the Court for the purpose of assuring the proper management of the proceeding under this Chapter and the protection of the assets of the corporation during such a proceeding, and will assist the corporation and its creditors to conduct negotiations for the purpose of formulating a debt arrangement.

(b) In addition to the authorities of the arrangement administrator pursuant to section 326, the arrangement administrator will attend in all meetings of the board of

directors of the corporation and its committees, and shall be entitled to receive any information that a member of the board of directors is entitled to receive, unless the court found that this is not necessary for the purpose of assuring the proper management of the proceeding or the protection of the assets of the corporation; the Court shall be entitled to lay down conditions for the participation of the arrangement administrator in the meetings and receiving information in accordance with this section.

(c) If the arrangement administrator is of the opinion that an action that the corporation intends to perform is not for the benefit of the corporation or might harm interested parties in the debt arrangement, he will report to the interested parties and to the Court about the same, and will attach his opinion regarding the harm that might be caused.

(d) The arrangement administrator will not provide information about the corporation that exceeds the necessary information for the purpose of filling his position in accordance with this Chapter.

(e) If the corporation or the arrangement administrator found, during the stay of proceedings period, that any of the conditions for stay of proceedings no longer holds true with respect to the corporation, it will notify the Court about the same.

(f) In order to ensure that the corporation fulfills the conditions of the decision on a stay of proceedings, the arrangement administrator will apply to whoever is in charge of on the registration of assets in a register kept in accordance with the law, for the purpose of entering in the register a note that the corporation is under a stay of proceedings, and the said person will act according to the said instruction.

(g) The arrangement administrator shall be entitled to apply to the Court and request directions for the purpose of exercising his authorities.

Cooperation between the corporation and the arrangement administrator
(Amendment no. 4 – Temporary Provision)
5781-2021

319N. (a) If the Court appointed an arrangement administrator and additional authorities were added to the debt arrangement as stated in section 319M(b), the following provisions will apply to the corporation during the stay of proceedings period:

(1) The corporation will deliver to the arrangement administrator, a reasonable time prior to making a decision on an action or a transaction that requires the approval of the Court in accordance with the provisions of this chapter, or pursuant to the decision of the Court, the entire

information relating to the said matter, and before applying to the Court for such approval as said – will apply to the arrangement administrator for the purpose of receiving his position and will attach it to the application;

(2) The corporation will report to the arrangement administrator each month regarding the projected scope of the expenses and income of the corporation and the expenses for the purpose of formulating the debt arrangement, and the expenses that were actually paid and the income obtained;

(3) The corporation will report regularly to the arrangement administrator regarding its activity according to the Operation Plan and will notify the arrangement administrator regarding any material change or deviation in the implementation of the Plan prior to making a decision to that effect, and if the change or the deviation did not require a decision – immediately after the corporation becomes aware of them; the arrangement administrator will notify the Court regarding any material change or deviation in the implementation of the Plan;

(4) The corporation will provide to the arrangement administrator any information that the arrangement administrator will demand and that is required for the purpose of filling his position; if the corporation is of the opinion that information that the arrangement administrator demanded from it is not necessary for the purpose of filling his position, it may apply to the court and request to release it from the duty to provide such information as said.

(b) The corporation may apply to the arrangement administrator and request his position with respect to any matter relating to the observance of the provisions set forth in this Chapter.

Relief for a material harm caused to an interested party in the debt arrangement (Amendment no. 4 – Temporary Provision) 5781-2021

319O. The Court may, on application of an interested party in the debt arrangement, grant him a relief in any it deems fit under the circumstances of the case, if it found that the stay of proceedings might cause him material harm.

Cessation of stay of proceedings (Amendment no. 4 –

319P. (a) The Court will order on cessation of the stay of proceedings if it was convinced that there is no reasonable prospect for formulating a debt arrangement and

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the approval of such debt arrangement during the stay of proceedings period or if one of the grounds enumerated in section 319G(b) holds true.

(b) The Court may order cessation of the stay of proceedings if it was convinced that one of the following holds true:

- (1) There is a reasonable concern that the operation of the corporation during the stay of proceedings period will harm creditors;
- (2) There are no means for the purpose of financing the expenses associated with the operation of the corporation during the stay of proceedings period.

(c) The Court may suspend the cessation of the stay of proceedings for the purpose of allowing repeating imposition of attachments that were revoked at the time of making the decision on stay of proceedings or the filing of an application to commence proceedings.

(d) The cessation of the stay of proceedings shall be without prejudice to the effect of any sale, transfer, payment, or any other legal action that were lawfully performed prior to the cessation of the stay of proceedings.

(Amendment no. 4 –
Temporary Provision)
5781-2021

Article C: Stay of proceedings in respect of a natural person

Filing an application for
stay of proceedings by a
natural person

319Q. (a) A natural person in respect of whom no order to commence proceedings was issued shall be entitled to file in Court, during the determining period, an application for stay of proceedings under this Article, for the purpose of formulating a debt arrangement with its interested parties; the natural person will deliver to the Superintendent a copy of the application and the documents attached thereto.

(Amendment no. 4 –
Temporary Provision)
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(b) The natural person will include in the application the required particulars and the documents whose inclusion in an application for presenting the debt arrangement for the approval of the interested parties therein, with the exception of the proposed debt arrangement, and will attach all of the following to the application:

- (1) An initial outline for the debt arrangement;
- (2) If the debt arrangement is required for the purpose of continuing the operation of his business, the natural person will specify the means for the purpose of financing the expenses associated with the operation of the business until the debt arrangement is approved, and will attach to the

application an Operation Plan as stated in section 319C, and all based on the characteristics of the business;

(3) A report and particulars as stated in section 104(b);

(4) A declaration that he understands the provisions that will apply to him after giving a decision on stay of proceedings, and that he undertakes to comply with the said provisions; the Superintendent will publish in his internet website a proposed form of such a declaration and will specify in it the provisions that will apply to the natural person after such a decision is made as said, in a clear and accessible manner.

Decision on an
application for stay of
proceedings
(Amendment no. 4 –
Temporary Provision)
5781-2021

319R. (a) The Court will order on a stay of proceedings against a natural person, if it found that all of the following hold true, unless it found that there is no reasonable prospect that the debt arrangement will be approved by the interested parties therein and by the Court:

(1) The stay of proceedings is required for the purpose of formulating the debt arrangement;

(2) There is no reasonable concern that the stay of proceedings will cause material harm to the existing assets of the natural person;

(3) With respect to a natural person who manages a business – there is no reasonable concern that the operation of the business during the stay of proceedings period will harm the creditors, and there are measures for the purpose of financing the expenses associated with the operation of the business until the approval of the debt arrangement.

(b) The Court will order in the manner as stated in sub-section (a) on application of the natural person, or if it found that this is necessary, after receiving the position of the creditors.

(c) The Court will not order on stay of proceedings if it finds that one of the following holds true:

(1) There is an actual concern that the natural person acts for the purpose of deceiving his creditors;

(2) There is an actual concern that the natural person acts for the purpose of removing its assets for the purpose of concealing it from its creditors;

(3) There is an actual concern that the natural person abuses the stay of proceedings.

(d) The stay of proceedings shall be for a period that will not exceed three months, in the manner ordered by the Court; the Court shall be entitled to extend the said period by additional periods that will not exceed cumulatively 30 days, if it found that during the said period it is reasonably possible that the debt arrangement will be approved by the interested parties therein Court by the Court, and that the other conditions set forth in sub-sections (a) and (c) are satisfied.

(e) If the Court ordered on stay of proceedings, the Court may set a date for filing an application to present a debt arrangement for the approval of the interested parties thereof, a date for convening class meetings for the approval of the debt arrangement and a date for the purpose of presenting the debt arrangement that was approved by the interested parties for the approval of the Court.

(f) The Superintendent will publish a notice regarding a decision on stay of proceedings with respect to a natural person in the internet website of the Ministry of Justice and will send a notice about the same to the natural person and to the creditors whose identity is known to the Superintendent; the arrangement administrator will provide a copy of the application and the decision therein to whoever the Court orders and under the conditions set out by the Court.

Application to revoke a decision on stay of proceedings
(Amendment no. 4 – Temporary Provision)
5781-2021

319S. (a) Whoever considers himself aggrieved by a decision on stay of proceedings shall be entitled to file to the court, in 14 days as of the publication date of the notice regarding the decision, an application to revoke such decision; the applicant will deliver a copy of the application to the natural person and to the Superintendent.

(b) If an application to revoke a decision on stay of proceedings was filed, the Court will decide whether to suspend the effect of the decision or its effects, in whole or in part, until a decision in the application is made.

(c) The decision in the application to revoke a decision on stay of proceedings will be made at the earliest opportunity; if the Court decided to suspend the effect of the decision or its effects ex parte, the Court will hear the parties at the earliest opportunity and no later than 14 days as of the date of giving the decision, and shall be entitled to hold a hearing regarding the application.

Effects of a decision on stay of proceedings
(Amendment no. 4 – Temporary Provision)
5781-2021

319T. During the stay of proceedings period –

(1) The past debts of the natural person will not be paid from the assets of the natural person, however, with regard to creditors with special payment rights, the provisions of Chapter F in Part D shall apply, and the provisions of sections

60, 255 and 256 shall apply with respect to creditors with special payment rights of a natural person who manages a business;

(2) The proceedings against the natural person will be stayed, pursuant to the provisions of Chapter E in Part B, and the provisions of the said Chapter shall apply, *mutatis mutandis*, and with the following changes having been carried out, and if restrictions on the natural person were imposed within the framework of collection proceedings – the restrictions are revoked:

(a) With respect to section 29(2) – a natural person who conducts a business in respect of which it was decided to stay of proceedings shall be deemed as a corporation under operation;

(b) With respect to section 29(4) – an attachment that was imposed on the wages of the natural person or on a bank account that is the current account of the natural person other than an attachment for the purpose of paying alimony debt is void, unless otherwise ordered by the Court, and another attachment that was imposed on any of the assets of the natural person prior to making a decision on stay of proceedings will be revoked if the Court gives an instruction to that effect;

(c) With respect to section 29(5) – the continuation or the commencement of a legal proceeding, including a proceeding under this Law, will not be permitted however only after obtaining the approval of the Court, and for special reasons that will be noted;

(3) The provisions of section 121(4) shall enter into force;

(4) The Court shall be entitled to order on prohibition of the departure of the natural person from the country;

(5) The natural person shall be precluded from removing assets from his possession, sell such assets or change their status or his rights therein not in the course of his regular and reasonable financial conduct, and with respect to a natural person who manages a business – not in the ordinary course of business, however only after obtaining the approval of the Court.

Appointment of an arrangement administrator and his authorities (Amendment

319U. (a) The Court will appoint an arrangement administrator pursuant to section 326 at the time of giving a decision on stay of proceedings.

(b) The Superintendent will provide proper training to the arrangement administrators appointed in proceedings under this section.

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(c) The arrangement administrator will act on behalf of the Court for the purpose of ensuring the proper management of a proceeding under this Chapter and the protection of the assets of the natural person during such a proceeding and will assist the natural person and the creditors to conduct negotiations for the purpose of formulating a debt arrangement.

(d) In addition to the authorities of the arrangement administrator pursuant to section 326, the following provisions shall apply:

(1) For the purpose of performing his function, the arrangement administrator will review the application that the natural person filed pursuant to section 319Q;

(2) In order to ensure that the natural person complies with the terms of the decision on stay of proceedings, the arrangement administrator will apply to whoever is in charge of the registration of assets in a register kept in accordance with the law for the purpose of entering in the register a note that the natural person is under a stay of proceedings, and said person will act in such manner as said;

(3) The arrangement administrator shall be entitled to apply to the Court and file an application for directions in connection with exercising his authorities.

Formulation of a debt
arrangement
(Amendment no. 4 –
Temporary Provision)
5781-2021

319V. (a) At the time of giving a decision on stay of proceedings, the natural person will start conducting negotiations forthwith for the purpose of formulating the debt arrangement.

(b) The arrangement administrator will assist the natural person and the creditors to formulate the debt arrangement, and the natural person will cooperate with the arrangement administrator for the purpose of this matter.

(c) The arrangement administrator will summon a meeting with the natural person that will be convened in seven days as of the date of giving a decision on stay of proceedings.

(d) The arrangement administrator will summon a meeting for the purpose of formulating a debt arrangement with the natural person and the creditors, that will be convened in 30 days as of the date of giving the decision on stay of proceedings; the arrangement administrator will deliver to the natural person and to the creditors a summons to the meeting no less than seven days prior to the date of the meeting.

(e) If the arrangement administrator formulated a debt arrangement and the natural person and all creditors who are a party to the arrangement agreed to the said debt arrangement, the natural person will submit the agreed debt arrangement for the approval of the Court; if the debt arrangement was formulated and all creditors who are a party to the debt arrangement did not agree to such an arrangement, the natural person will file in court an application for its approval by the creditors and the provisions of Chapter B in Part J shall enter into force.

(f) A conference and a meeting in accordance with this section may also be convened by way of telecommunication.

Arrangement
administrator' fee
(Amendment no. 4 –
Temporary Provision)
5781-2021

Section 319W. (a) The arrangement administrator who was appointed under this Article shall be entitled to fees, and his fees will be paid out of the assets of the natural person as follows:

- (1) An amount of NIS 3,500 including expenses, in addition to VAT, for convening a meeting with the natural person and a debt arrangement meeting, as stated in section 319V and all actions related thereto, including the inspection of documents, conversations with the parties to the debt arrangement, making the proposed debt arrangement, giving clarifications to the Court, if this is required, and all other actions until the convening of the class meetings in the manner set out in section 323;
- (2) An amount of NIS 1,000 including expenses, in addition VAT, after convening the meetings.

(b) If a debt arrangement was approved pursuant to the provisions of sections 319V(e) or 324, and the Court is of the opinion that it is necessary to appoint an arrangement administrator for the purpose of implementing the debt arrangement, the Court will appoint the said arrangement administrator also for the purpose of implementing the debt arrangement pursuant to section 326, unless it found that there are special reasons, that will be noted, for the appointment of another arrangement administrator.

(c) The Court will set the fees to the arrangement administrator who was appointed pursuant to sub-section (b) in accordance with the regulations pursuant to section 326; if the regulations set alternatives for the purpose of determining the fees, the Court will set the fees based on the alternative with the lower amount, provided that if the arrangement was completed, the fee will not fall below an amount of NIS

9,000 that includes expenses, in addition to VAT, and with deduction of the fee that the arrangement administrator received pursuant to sub-section (a); however the Court may decrease or increase the fees for reasons that will be noted, in accordance with the regulations under section 326.

Financial conduct of the natural person during the stay of proceedings period (Amendment no. 4 – Temporary Provision) 5781-2021

319X. If a decision on stay of proceedings was given, the following provisions shall apply to the natural person:

- (1) The natural person will not engage in a transaction or perform an action for the purpose of receiving credit however only with the approval of the Court; such approval may be granted ad-hoc or for a specific transaction or action; the instructions set forth by the Superintendent pursuant to section 123(b) regarding the necessary expenses for the subsistence of the natural person in respect of which the natural person may engage in a transaction or the performance of an action that require the provision of credit shall apply to the natural person, for amounts that the Superintendent will set, without obtaining the approval of the Court;
- (2) The natural person will not perform transactions with his assets not in the course of regular and reasonable financial conduct, and with respect to a natural person who conducts a business – not during his ordinary course of business, however only with the approval of the Court; such approval may be granted for a specific transaction or a specific type of transactions and may be granted in advance;
- (3) The natural person will report to the Superintendent and to the arrangement administrator regarding any material change in any information relating to his financial status subject matter of his report pursuant to this Article;
- (4) A natural person in respect of whom a decision on stay of proceedings was made and who engages in a transaction or performs an action that requires the taking of credit will perform such an action under the name in respect of which a decision was made, and will state that he is “in a stay of proceedings during a state of emergency as a result of the outbreak of the COVID-19 pandemic” during the stay of proceedings period; the instructions of the Superintendent, pursuant to section 124(b) will apply to the natural person with respect to the types of transactions in respect of which there is no obligation to refer to the insolvency proceedings;
- (5) The provisions of sections 319K (1), (2), (5), (6), (8), and (9) shall also apply to a corporation who conducts a business, *mutatis mutandis*.

Relief for a material
harm caused to a creditor
(Amendment no. 4 –
Temporary Provision)
5781-2021

319Y. The Court may, on application of a creditor, grant him a relief in the manner it deems fit under the circumstances of the case, if it found that the stay of proceedings might cause him material harm.

Cessation of stay of
proceedings
(Amendment no. 4 –
Temporary Provision)
5781-2021

319Z. (a) The Court will order the cessation of stay of proceedings if it was convinced that it is not reasonably possible to formulate a debt arrangement and approve such an arrangement during the stay of proceedings period or if one of the grounds enumerated in section 319G(b) holds true, *mutatis mutandis*.

(b) If the natural person or the arrangement administrator found during the stay of proceedings period that one of the conditions for granting stay of proceedings no longer holds true with respect to the natural person, he will notify the Court about the same.

(c) If the arrangement administrator found during the stay of proceedings period that the natural person does not act in accordance with the provisions of sections 319V(b) and 319X, he will apply to the Court and request directions.

(d) The Court shall be entitled to suspend the cessation of stay of proceedings for the purpose of allowing the repeated imposition of restrictions or attachments that were revoked at the time of giving a decision on stay of proceedings or filing an application to commence proceedings.

(e) The cessation of stay of proceedings shall be without prejudice to the effect of a sale, transfer, payment or any other legal action that were lawfully performed prior to the cessation.

Approval of the debt
arrangement
(Amendment no. 4 –
Temporary Provision)
5781-2021

319AA. Notwithstanding the provisions of sections 323(b) and 324(a), the following provisions shall apply to the approval of a debt arrangement with respect to a natural person whose total amount of debts does not exceed NIS 150,000:

(1) The voting power will be determined based on the list of debts, claims and collection proceedings that are conducted with respect to the natural person and that the natural person filed; a creditor who considers himself aggrieved by a record that was submitted shall be entitled to file a debt claim for the purpose of determining the voting power;

(2) The creditors who did not participate in the class meetings for the purpose of approving the debt arrangement shall be deemed as supporting

the debt arrangement, if the arrangement administrator confirmed that he delivered the application for the approval of the debt arrangement to all interested parties in the arrangement, and that they were summoned to the class meeting; the summons to the class meeting will state that creditors who did not object to the debt arrangement shall be deemed as supporting it.

(Amendment no. 4 –
Temporary Provision)
5781-2021

Transition to insolvency
proceedings

Article D: Provisions applicable to transition to insolvency proceedings

319AB. (a) If one of the following holds true, the provisions of sub-section (b) shall enter into force:

(1) If the stay of proceedings expired, or ceased, and an order to commence proceedings was issued following an application for such an order that was filed before the said stay of proceedings expired;

(2) If an order to commence proceedings was issued following an application for an order that was filed during the period in which the Court suspended the stay of proceedings pursuant to the provisions of sections 319P(c) or 319Z(d).

(b) (1) The date of the decision on stay of proceedings with respect to the insolvency proceedings of a debtor shall be deemed as the date of issuance of the order to commence proceedings with respect to that debtor, and the filing date of the application for stay of proceedings shall be deemed as the date of filing the application to commence proceedings; however, a creditor in a past debt shall be entitled to file to the trustee a debt claim in six months as of the publication date of the order to commence proceedings, as stated in section 210(a);

(2) The expenses of the proceeding under this Article shall be deemed as the insolvency proceedings expenses; “proceeding expenses” in this paragraph – all expenses stemming from the activities that the arrangement administrator performed within the framework of stay of proceedings, including his fees, and the amounts required for the payment of new credit as said in section 319K(6), and with respect to a corporation or a natural person who conducts a business – also expenses he undertook to pay in accordance with the operation plan, including expenses for the

purpose of performing his obligations under an existing contract as of the date of the decision on stay of proceedings;

(3) With respect to a natural person who filed an application pursuant to Article A in Chapter L of Part C, Article B of the said Chapter will not apply with respect to the formulation of a payments arrangement.

Arrangement administrator will not be appointed as a trustee in a proceeding with respect to a natural person (Amendment no. 4 – Temporary Provision) 5781-2021

319AC. The arrangement administrator who was appointed in a stay of proceedings with respect to a natural person will not be appointed as a trustee in an insolvency proceeding with respect to the said natural person.

(Amendment no. 4 – Temporary Provision) 5781-2021

Article E: Miscellaneous provisions

Applicability of regulations to proceedings under this chapter (Amendment no. 4 – Temporary Provision) 5781-2021

319AD. Regulations pursuant to sections 8, 12, 13, 26, 104, 106, 356 and 357 shall apply to the filing of an application for stay of proceedings and stay of proceedings against a third party, and with respect to the publication and service under this chapter, *mutatis mutandis*, and for the purpose of this matter the person who filed the application for stay of proceedings shall be deemed to have filed an application to commence proceedings, and with respect to a corporation – an application to commence proceedings that includes the operation of the corporation, and the decision on stay of proceedings as if it is an order to commence proceedings; however, with regard to fees and payments that were set out in the regulations pursuant to section 356(3), the person who filed the application for stay of proceedings shall be deemed as if he filed an application for a debt arrangement.

Reporting to the Knesset about stay of proceedings and debt arrangements

319AE. The Minister will report to the Constitution Committee, every six months, regarding the number of applications for stay of proceedings filed under this chapter, the number of decisions on stay of proceedings that were given and the number of debt arrangements that were approved during the period of stay of proceedings, and all in a breakdown to the different categories of debts.

Power of an approved debt arrangement

Chapter B: Approval of a debt arrangement

320. A debt arrangement shall bind the debtor and each of the interested parties thereof even if not all interested parties agreed to the arrangement, if it was approved

by interested parties in a requisite majority and by the Court in accordance with the provisions of this chapter.

Application to present a debt arrangement for the approval of interested parties

321. (a) Whoever proposes a debt arrangement and is one of the following entities listed below, may file in Court an application to present the arrangement for the approval of its interested parties:

- (1) If the debtor is a natural person – the debtor;
- (2) If the debtor is a corporation – the corporation or a member of the corporation, and a creditor – if the conditions for filing an application to commence proceedings pursuant to section 9 hold true with respect to him.

(b) The applicant will include in the application the entire information that is required for the purpose of making a decision in the application, including the proposed debt arrangement and the benefit that will arise out of its approval, and the particulars enumerated in section 82(b), *mutatis mutandis*; the Minister, with the approval of the Constitution Committee, shall be entitled to prescribe additional particulars whose inclusion in the application is required, and documents that will be attached to the application that the interested parties require for the purpose of making a decision regarding the approval of the proposed debt arrangement.

(c) The applicant will deliver a copy of the application to the Superintendent.

Presenting a debt arrangement for the approval of interested parties

322. (a) If an application was filed in Court pursuant to section 321, the Court will order to present the debt arrangement for the approval of the creditors.

(b) If the total assets of a debtor that is a corporation exceeded its total debts and the debt arrangement offers to each creditor consideration that is equal to the entire amount of the debt subject matter of creditorship – the proposal will also be presented for the approval of the members of the corporation.

(c) Notwithstanding the provisions of sub-sections (a) and (b), if the Court found that the mere presentation of the debt arrangement for the approval of the creditors affects a proceeding under this chapter, it will not order on its presentation for the approval of the interested parties.

Class meetings

323. (a) Approval of a debt arrangement by the interested parties shall be granted in meetings that will be convened separately with respect to each class of creditors or the members of the corporation (in this chapter – Class Meetings) in the manner ordered by the Court; “class” for the purpose of this matter – as defined in section 84(a).

(b) For the purpose of convening and deciding in meeting in accordance with the provisions of this section, the Court will decide regarding the right of each creditor or a member in the corporation to vote in the meeting and will prescribe his voting power based on the rate of the debt subject matter of his creditorship, or based on the rate of his rights in the corporation, as the case may be; the Court may order that the proceeding that will determine the voting power will be conducted before an arrangement administrator that will be appointed under section 326; such a decision as said shall be in effect for the purpose of determining the voting power in meetings summoned solely under this section.

(c) The provisions of section 84(c) to (e) shall apply to Class Meetings that were summoned under this chapter, *mutatis mutandis*.

Approval of the debt arrangement by interested parties and the Court

324. (a) The provisions of sections 85 to 88 shall apply to the approval of a debt arrangement by interested parties and the Court, *mutatis mutandis*, and subject to the provisions of sub-section (b).

(b) If the debt arrangement is made with a debtor that is a natural person –

(1) The proposed consideration to the creditor in the debt arrangement will be examined, with respect to sections 87(1) and 88, compared to the consideration that the said creditor would have received if a financial rehabilitation order had been issued with respect to the natural person;

(2) The Court may stipulate the approval of the debt arrangement on training for proper financial conduct that the natural person will undergo, if it found that the circumstances that caused the filing of the application for a debt arrangement suggest that the training will assist in his financial rehabilitation; the training will be performed in accordance with the rules laid down by the Minister, with the approval of the Constitution Committee;

(3) Assets that are not part of the insolvency estate as stated in section 217, and a right in an asset to which the protection of dwelling house set out in section 229 applies shall not be deemed as assurance of any consideration to the debtor report section 87(2).

Debts excluded from a debt arrangement

325. A debtor under a debt arrangement may not be released from the obligations set out in sections 89(b) and 175.

Appointment of an arrangement administrator

326. (a) The Court may appoint an arrangement administrator for the purpose of performing the following actions, in whole or in part:

(1) Deciding on voting rights and voting power of the interested parties in the class meetings;

(2) Deciding on the scope of the rights of the interested parties in a debt arrangement that was approved, for the purpose of distributing the consideration in accordance with the instructions set forth in the arrangement;

(3) Additional actions that are required for the purpose of implementing the debt arrangement that was approved, in the manner ordered by the Court.

(b) The provisions of sections 33 and 37 or sections 125 and 126 shall apply to the appointment of an arrangement administrator, *mutatis mutandis*.

(c) The Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the arrangement administrator, including with respect to his fees and authorities and regarding the manner of conducting the proceedings heard before him, including the manner of filing the application to the arrangement administrator, the particulars contained therein and the manner of deciding in such proceedings.

Authority of the Court to hear disputes

327. The Court that approved a debt arrangement is authorized to hear a dispute that arose in connection with the interpretation of the arrangement or its implementation.

Chapter C: Approval of a material debt arrangement with respect to a securities company

Definitions – Chapter C

328. In this chapter –

“Material debt arrangement” – a debt arrangement in a securities company that concerns a material change in the terms of payment of a series of securities that includes reduction of debt or delay of the payment date, including an arrangement according to which the securities will be paid-up, in whole or in part, by way of issuing other securities to the security holders;

“Securities trustee” – a trustee who was appointed pursuant to chapter E’1 of the Securities Law;

“Securities company” and “securities series” – as defined in the Companies Law.

Appointment of an expert for the purpose of

329. (a) If negotiations are conducted between a securities company and the holders of securities of a specific series for the purpose of formulating a material debt arrangement, the securities trustee of the said security holders, and if no securities

examining a material
debt arrangement

trustee was appointed as said – the company will apply to the Court during the negotiations, for the appointment of an expert on behalf of the Court for the purpose of examining the debt arrangement (in this chapter – the Expert).

(b) A securities trustee who filed the application for the appointment of an Expert and the security trustees of security holders of other series shall be entitled to offer candidates for the position of the Expert

(c) If an application for the appointment of a trustee was filed, the Court will appoint an Expert on its behalf, unless it deems, under the circumstances, that the appointment of the Expert is not necessary for the purpose of protecting the interests of the security holders.

(d) The Expert will have accounting and financial competency, as meant by this term in section 240(a1) of the Companies Law, or will have any other professional competency that is required for the purpose of filling his duties in accordance with this chapter, and will have proper experience, and all in the manner set out by the Minister with the approval of the Constitution Committee.

(e) The Court will not appoint as an Expert whoever might be in a conflict of interests between his duties as an Expert and his personal interest or any other position that he or that the relative of another person with whom he maintains personal or financial connections fills including a conflict of interests stemming from an undertaking that the Expert made to the interested party in the proceeding or to a representative of the interested party.

(f) If an order to commence proceedings was issued with respect to a securities company, the Expert will cease to serve in his office; the provisions of this sub-section shall be without prejudice to the authority of the Court to confer on the trustee the duties of the Expert and his authorities under this chapter, *mutatis mutandis*, or appoint the Expert as a trustee if he satisfies the conditions for the purpose of this matter under Article A: Appointment of the trustee in chapter F in Part B.

Duties of the expert

330. The following are the duties of the expert:

(1) To provide professional assistance when conducting the negotiations for the purpose of formulating the debt arrangement, and in this regard to provide professional advice by himself, or by other experts on his behalf, to the security holders or to a representative they appointed on their behalf, and provide them information that they require for the purpose of conducting the negotiations;

(2) To prepare, in accordance with the instructions of the Court, an opinion regarding the feasibility of the debt arrangement to the security holders (in this chapter – the Expert’s Opinion); the Expert’s Opinion will be submitted to the Court, to the company, to the securities trustee and to the security holders a reasonable time prior to convening the meetings pursuant to section 323, on the date ordered by the Court;

(3) To examine whether a distribution that was performed by the company during the period that was prescribed by the Court and that preceded the appointment of the Expert is a prohibited distribution, as meant by this term in section 301(b) of the Companies Law (in this Article – Examination of Past Distributions); the findings of the examination as said will be submitted to the Court, to the company, to the securities trustee and to the security holders no later than the date of submission of the Expert’s Opinion.

Expert opinion

331. (a) The Expert Opinion will refer, *inter alia*, to the alternatives to the proposed debt arrangement and the consideration that the security holders would have received under each of the alternatives, and in this regard the Expert will examine the alternative of winding-up of the company and its possible sale or the sale of its assets to a third party.

(b) If, according to the proposed debt arrangement, there are any surplus shares held by anyone who was a shareholder of the company shortly before the arrangement, the Expert Opinion will also refer to the following:

(1) The value of the shares remaining as said, and in particular the shares remaining by the controlling shareholder in the company, and the consideration that the shareholders will pay in respect whereof;

(2) The option to pay the securities by way of issue of the shares remaining as said to the security holders or by way of their sale to third parties.

(c) If the proposed debt arrangement included an instruction stipulating that the security holders or the company shall be precluded from bringing suit against an office holder in the company, an interested party in the company, as defined in the Companies Law, or any other person (in this section – Exemption from Liability), the Expert Opinion will also include reference to the following:

(1) An examination whether actions or transactions that a person in respect of whom the Exemption from Liability is proposed, during the period that preceded the filing date of the application for the approval of the debt arrangement, give rise to causes of action against him by the security holders or the company, including a cause of action pursuant to section 106(c) of the Companies Law;

(2) The estimated economic value of the Exemption from Liability, taking into consideration the findings of the examination pursuant to paragraph (1), and the considerations for granting such an exemption as said.

(d) If the proposed debt arrangement included a different consideration to the holders of securities of different series, the Expert Opinion will also include a response to the feasibility of the proposed arrangement for each of the series, and the fairness in the distribution of the consideration between the security holders.

(e) If the proposed debt arrangement is part of a debt arrangement between the company and other creditors, the Expert Opinion will also include a response to the feasibility of the arrangement to the said creditors.

(f) The Minister shall be entitled to prescribe other matters that will be included in the Expert Opinion, and lay down instructions regarding its form and the manner of its delivery and regarding the manner of delivery of findings of the Examination of Past Distributions.

Convening class meetings

332. The Court will not order on the convening of class meetings of the interested parties in a material debt arrangement pursuant to section 322 before it received the Expert Opinion and the findings of the Examination of Past Distributions; the date of convening the meetings that the Court will set will be a reasonable time after the provision of the Opinion and the Examination findings to the Company, to the securities trustee, to the security holders and to the Court.

Authority of the expert to demand information

333. (a) The company and the securities trustee will provide to the Expert any information that the Expert will demand and that is required for the Expert for the purpose of filling his duties.

(b) If the company or the securities trustee are of the opinion that information that the Expert demanded from them is not necessary for the Expert for the purpose of filling his duties, they shall be entitled to apply to the Court and request from the Court to exempt them from the duty to provide information.

(c) The Court may lay down conditions for the provision of the information in accordance with this section, and in this regard prohibit the provision of such information to security holders.

Remuneration and expenses

334. (a) The Court will decide the remuneration of the Expert and shall be entitled to approve for the Expert to receive services from other experts for the purpose of performing his duties, for the cost set by the Court.

(b) The Expert's remuneration and the costs as stated in sub-section (a) will be paid by the company, unless otherwise ordered by the Court, for special reasons that will be noted; however, if the debt arrangement is part of a debt arrangement between the company and other creditors, the Court will decide which party shall incur the said remuneration and costs.

Preservation of authorities of the securities trustee

335. The provisions of this Article shall be without prejudice to the authorities of a securities trustee in accordance with the provisions set forth in any law.

Exclusive approval procedure

336. A material debt arrangement in a securities company shall be in effect as stated in section 320 only if it was approved in accordance with the provisions of this Part.

Chapter D: Conducting a protected negotiation by a corporation – temporary provision

Definitions – Chapter D

337. In this chapter –

“Board of directors” – as meant by this term in the Companies Law, and any entity filling an equivalent function in a partnership;

“Protected negotiation” – negotiations for the purpose of formulating a debt arrangement in which the protections under this chapter apply;

“Reporting corporation” – a public company or a securities company, as defined in the Companies Law, or a public limited partnership, as defined in the Partnerships Ordinance;

Commencement of protected negotiation

338. (a) A debtor that is a reporting corporation shall be entitled to commence protected negotiation if the board of directors of the corporation confirmed that all of the following hold true:

(1) The corporation has no debt whose payment date is due and that was not paid, except for a debt that is under dispute in good faith;

(2) There is no actual concern that the corporation will not about to pay on time the debts whose payment date is due in the next nine months.

(b) The reporting corporation will deliver notice regarding the commencement of protected negotiations and a copy of the approval of the board of directors for all

creditors in respect of whom it is interested to have protection and to the Superintendent.

(c) If the reporting corporation made in announcement in the manner set out in sub-section (b), it shall commence forthwith to conduct negotiations with the creditors to whom it delivered the notice.

(d) The Minister will lay down instructions regarding the form of approval of the board of directors pursuant to sub-section (a), and shall be entitled to lay down instructions regarding the particulars of the notice to the creditors, pursuant to sub-section (b) and the manner of its delivery.

Protections of the reporting corporation within the framework of a protected negotiation

339. (a) The following are the protections that the reporting corporation will have against any creditor who received a notice pursuant to section 338(b):

- (1) The creditor shall not be entitled to file in court an application to present a debt arrangement that he proposed for the approval of the interested parties, pursuant to section 321;
- (2) The creditor cannot call the debts for immediate payment;
- (3) The creditor cannot file an application to commence proceedings.

(b) The period during which the protections granted under sub-section (a) shall apply (in this chapter – the Protections Period) shall be as stated in the notice of the reporting corporation, pursuant to section 338(b), subject to the following provisions:

- (1) The Protections Period shall commence with respect to each creditor on the date of delivery of notice to the said creditor;
- (2) The Protections Period will not exceed six months as of the date of approval of the board of directors, pursuant to section 338(a);
- (3) If there were or there are grounds for calling a debt for immediate payment – the Protections Period with respect to all creditors will expire in 45 days as of the date the reporting corporation received notice regarding the existence of such grounds or as of the date of approval of the board of directors, pursuant to section 338(a), whichever is later, however no later than the end of the period set out in paragraph (2);
- (4) If the reporting corporation did not pay an undisputed debt on time, the Protections Period shall expire.

Relief in consequence of material harm to a creditor

340. The Court may, on application by a creditor, remove the protections granted under section 339(a) that apply to the creditor, in whole or in part, or grant him another relief in any manner it deems fit under the circumstances of the case, if it found that

the applicability of the protections might cause material harm to the creditor; for the purpose of this matter, the protections shall be deemed as having a potential of causing material harm to a creditor, if one of the following holds true, *inter alia*:

- (1) There is an actual concern that the corporation acts for the purpose of deceiving its creditors;
- (2) There is an actual concern that the corporation acts for the purpose of removing any of its assets for the purpose of concealing this asset from its creditors;
- (3) There is an actual concern of harm to the value of the asset encumbered in favor of the creditor;
- (4) There is an actual concern that the corporation abuses the protections granted to it under this chapter.

Appointment of a representative of the creditors

341. (a) If a reporting corporation announced the commencement of protected negotiations, the creditors will appoint a representative on their behalf (in this chapter – Representative of the Creditors) who will conduct the negotiations in their name and who will act as an observer on their behalf in the meetings of the board of directors of the corporation and its committees.

(b) If the Representative of the Creditors was not appointed in 21 days as of the date the reporting corporation delivered notice pursuant to section 338(b), the Superintendent will appoint the Representative of the Creditors, in consultation with the creditors, out of a list he prepared after consulting with the Director-General of the Securities Authority, the Commissioner of Capital Markets, Insurance and Savings in the Ministry of Finance and the Supervisor of Banks; the creditors shall be entitled at any time to replace the representative that the Superintendent appointed if they reached an agreement on the identity of another representative on their behalf.

(c) The Minister, with the approval of the Constitution Committee, shall be entitled to lay down instructions regarding the appointment of the Representative on behalf of the Creditors, his qualifications, remuneration, and the preparation of the list by the Superintendent.

Status of the representative of the creditors at the board of directors

342. The Representative of the Creditors shall be entitled to attend all meetings of the board of directors of the reporting corporation and committees thereof, and receive any information that a member of the board of directors is entitled to receive, however shall not be entitled to be present in meetings that debate the formulation of the position of the corporation regarding the protected negotiations and receive information in connection therewith.

Right to receive information

343. (a) The reporting corporation will provide to the Representative of the Creditors, a reasonable time before making a decision on the following matters, the entire information related to the said matter:

- (1) Distribution to the members of the corporation;
- (2) An extraordinary transaction;
- (3) A transaction enumerated in section 270 of the Companies Law.

(b) The corporation will report each month to the Representative of the Creditors regarding the projected scope of the management expenses and the general expenses as defined in generally accepted accounting principles.

(c) The corporation may file an application to the Court to lay down conditions regarding the attendance of the Representative of the Creditors in the meetings of the board of directors and provision of the information pursuant to section 342, and in connection with the provision of information under this section or an application to exempt it from providing information to the Representative of the Creditors or to the creditors in light of its confidentiality.

(d) In this section, “distribution” and “extraordinary transaction” – as defined in the Companies Law.

Reporting to creditors

344. (a) If the Representative of the Creditors is of the opinion that an action that the reporting corporation intends to perform is not for the benefit of the corporation or might harm the creditors, he will report to the creditors about the same and will attach his opinion regarding the harm that might be caused and the possible manners of action of the creditors.

(b) The Representative of the Creditors will not provide to the creditors information about the reporting corporation that exceeds the scope required for the purpose of filling his duties under this chapter.

Temporary provision

345. The provisions of this chapter shall be in effect for a period of four years as of the commencement date of this Law, and will continue to apply to protected negotiation that were not completed during the said period, even after expiration of the said period.

Part K: Penalties and enforcement authorities

Chapter A: Penalties

Penalties

346. (a) A debtor in respect of whom an order to commence proceedings was issued, and with respect to such a debtor as said that is a corporation – a member in the corporation or an office holder therein who committed one of the following – shall be liable to three years of imprisonment:

(1) He concealed an asset of the assets of the debtor prior to the issuance of the order to commence proceedings, so as to exclude it from the assets of the insolvency estate;

(2) He concealed an asset of the assets of the debtor after the issuance of the order to commence proceedings;

(3) He did not provide information whose communication is required in accordance with the provisions of this Law, or provided to the trustee, to the Superintendent or to the Execution Registrar such information as said that is partial or false, for the purpose of harming the insolvency proceedings.

(b) A natural person in respect of whom an order to commence proceedings was issued and engaged in a transaction or performed actions for the purpose of receiving credit without obtaining the approval of the Superintendent or in contravention of his instructions, and with respect to a natural person who is a natural person with small debts – without the approval of the Execution Registrar, or not under the name corresponding to the name stated in the order, or without specifying that he is insolvent, in contravention of the provisions of sections 123 or 124(b) or the provisions of the said sections as applied in sections 201 and 202, will be liable to one year of imprisonment.

(c) Without prejudice to the provisions of sub-section (a)(3), any party other than the debtor, a member of the corporation or an office holder therein and is required to provide information or documents to the trustee, to the Superintendent or to the Execution Registrar in accordance with the provisions of sections 47, 49, 133, 135, 146 or 147 or the provisions of the said sections as applied in sections 201 and 202 and failed to act in such manner as said, or provided such information as said that is partial or false, and all for the purpose of harming the insolvency proceedings, will be liable to one year of imprisonment.

Chapter B: Enforcement authorities

Appointment of investigators

347. (a) The Minister shall be entitled to authorize, out of that Ministry employees, investigators who will have the authorities pursuant to this chapter, in whole or in part; a notice regarding such authorization as said will be published in the Official Gazette and in the internet website of the Superintendent.

(b) An investigator pursuant to sub-section (a) (in this chapter –Investigator) will not be authorized, unless all of the following holds true with respect to the said Investigator:

(1) Israel Police announced, no later than three months as of the date of receiving the information regarding the employee, that it does not object to his authorization for reasons relating to public security, including on the grounds of his criminal record;

(2) He received proper training, corresponding to the authorities conferred on him in accordance with this chapter, in the manner ordered by the Minister, with the approval of the Minister of Public Security and proper training in insolvency proceedings, in the manner ordered by the Superintendent;

(3) He complies with other terms of eligibility in the manner ordered by the Minister, in consultation with the Minister of Public Security.

Enforcement authorities 348. (a) If a suspicion that an offense was committed arose, pursuant to Chapter A: Penalties, the Investigator shall be entitled to –

(1) Investigate any person who is related to such an offense as said, or a person who might have knowledge regarding such an offense as said; the provisions of sections 2 and 3 of the Criminal Procedure Ordinance (Testimony) shall apply to an investigation conducted under this paragraph, *mutatis mutandis*;

(2) Seize any object related to such an offense as said; the provisions of chapter four of the Criminal Procedure Ordinance (Arrest and Search) [New Version], 5729-1969 shall apply to seizure under this paragraph, *mutatis mutandis*;

(3) Request from the Court a search warrant pursuant to section 23 of the Criminal Procedure Ordinance (Arrest and Search) and execute such warrant; the provisions of sections 24(a)(1), 26 to 28 and 45 of the Criminal Procedure Ordinance (Arrest and Search) shall apply to a search conducted under this paragraph, *mutatis mutandis*.

(b) Notwithstanding the provisions of sub-section (a), the authorities listed under the said sub-section shall not be conferred on an Investigator with respect to an offense of concealment of an asset pursuant to section 346(a)(1) or (2) that was committed in one or more of the following:

- (1) By the commission of an additional offense;
- (2) If the concealed asset is prohibited property, as meant by this term in section 3(a) of the Prohibition on Money Laundering Law, 5760-2000 – by way of actions in the said property as defined in the said law, which is prohibited property.

(c) The provisions of sub-section (b) shall be without prejudice to the provisions of section 2 of the Criminal Procedure Ordinance (Testimony).

(d) An Investigator will not exercise the authorities conferred on him under this chapter however only when filling his duties and if all of the following hold true:

- (1) He wears a visible tag, identifying him and his title;
- (2) He holds an investigator certificate signed by the Minister, specifying his title and his authorities, that he will present upon demand.

Part L: Miscellaneous provisions

Appeal against a decision
of the Court

349. (a) The judgment of a District Court in the first instance that was given in accordance with this Law may be appealed in the Supreme Court, and a judgment of the Magistrates Court given in accordance with this Law may be appealed in the District Court; the following decisions shall also be deemed as a judgment for the purpose of this matter:

- (1) A decision in an application to commence proceedings, pursuant to sections 18 or 116;
- (2) A decision in an application to terminate the appointment of the trustee, pursuant to sections 55 or 140;
- (3) A decision not to bring a proposed plan for financial rehabilitation or a debt arrangement for the approval of the creditors and the members of the corporation, pursuant to sections 83(c) or 322(c);
- (4) A decision regarding the approval of a plan of financial rehabilitation or a debt arrangement, pursuant to sections 86 to 88 or 324;
- (5) A decision regarding termination of operation of the corporation and its winding-up, pursuant to section 94;
- (6) A decision regarding the cessation of the winding-up proceedings of the corporation and the operation of the corporation for its financial rehabilitation, pursuant to section 98;
- (7) A decision in an application for the dissolution of the corporation, pursuant to section 99;

- (8) A decision in an application to commence proceedings, pursuant to sections 108, 183 or 286;
- (9) A financial rehabilitation order, pursuant to section 161;
- (10) A decision regarding a change in a financial rehabilitation order, pursuant to section 170;
- (11) A decision regarding the revocation of a discharge, pursuant to section 176;
- (12) A decision regarding allowance to a party entitled to alimony, pursuant to section 179;
- (13) A decision regarding the referral of the proceedings from the Execution Registrar to the Court, pursuant to section 207;
- (14) A decision regarding the protection of dwelling house, pursuant to section 229;
- (15) A decision regarding arrest, pursuant to section 285.

(b) Another decision of the District Court that was given under this Law may be appealed in the Supreme Court if a Supreme Court Justice designated by the President of the Supreme Court granted leave for the purpose of this matter; another decision of the Magistrates Court given under this Law may be appealed before the District Court, if a judge in the District Court designated by the President of the District Court granted leave for the purpose of this matter.

(c) Notwithstanding the provisions of sub-section (b), no leave of appeal on the types of decisions that the Minister prescribed in an order, with the approval of the Constitution Committee, shall be granted; if a type of decision is stated in an order as said, the order will apply to the decision that was adopted after its commencement date.

(d) The provisions of sub-section (c) shall be without prejudice to the right of a party to appeal such a decision as stated in the said sub-section within the framework of an appeal on the judgment.

Appeal against a decision of the Superintendent

350. (a) A final decision of the Superintendent that was given under this Law may be appealed in the Magistrates Court; the following decisions shall be deemed as final for the purpose of this matter:

- (1) A decision not to issue an order to commence proceedings pursuant to section 105;
- (2) A decision regarding the lifting of the restriction, pursuant to sections 143 or 169.

(b) Another decision of the Superintendent that was given under this Law may be appealed before the Magistrates Court, if a Magistrates Court judge designated by the President of the Magistrates Court granted leave for the purpose of this matter.

(c) Notwithstanding the provisions of sub-section (b), no leave of appeal on the types of decisions that the Minister prescribed in an order, with the approval of the Constitution Committee, shall be granted; if a type of a decision was prescribed in an order as said, the order will apply to a decision that was adopted after its commencement date.

(d) The provisions of sub-section (c) shall be without prejudice to the legal right of a party to appeal such a decision as said in the said sub-section within the framework of an appeal on the final decision.

Appeal against a decision
of the Execution
Registrar

351. (a) A final decision of the Execution Registrar that was given under this Law may be appealed in the Magistrates Court; the following decisions, *inter alia*, shall be deemed as a final decision:

- (1) A decision not to summon a meeting for the purpose of formulating a payments arrangement, pursuant to section 190;
- (2) A decision regarding the approval of a payments arrangement, pursuant to section 196;
- (3) A decision with respect to matters that are considered as a judgment or as a final decision, pursuant to sections 349(a) or 350(a).

(b) Another decision of the Execution Registrar that was given under this Law may be appealed before a Magistrates Court, if a Magistrates Court judge who was designated by the President of the Magistrates Court for the purpose of this matter granted leave for the purpose of this matter.

(c) Notwithstanding the provisions of sub-section (b), no leave of appeal on the types of decisions that the Minister prescribed in an order, with the approval of the Constitution Committee, shall be granted; if a type of a decision was prescribed in an order as said, the order will apply to a decision that was adopted after its commencement date.

(d) The provisions of sub-section (c) shall be without prejudice to the legal right of a party to appeal such a decision as said in the said sub-section within the framework of an appeal on the final decision.

- Update of sums
352. (a) The sums set out in this Law will be updated on January 1 in each year (in this section – the Update Date) based on the rate of change in the consumer price index known on the Update Date compared to the index known on January 1 of the previous year.
- (b) The Minister will publish a notice regarding the updated sums in the Official Gazette.
- The Magistrate Court which has jurisdiction to hear proceedings in respect of natural persons under this Law
353. (a) The Magistrates Court that will have jurisdiction over the proceedings under this Law with respect to natural persons in each district will be the Magistrates Court where the President of the Court sits.
- (b) Notwithstanding the provisions of sub-section (a), the Minister, in consultation with the President of the Supreme Court shall be entitled, in an order and with the approval of the Constitution Committee, to empower, with respect to a specific district, another Magistrates Court than the one as stated in the said sub-section, and, in consultation with the President of the Magistrates Court, other Magistrates Courts that will hear the proceedings of natural persons in that district under this Law.
- Applicability of the provisions of the law to a specific body of persons other than a corporation
354. The Minister may, in an order, apply the provisions of this Law, in whole or in part, to a specific body of persons other than a corporation, as defined in section 4 and in respect of which there is no other arrangement laid down in an enactment in respect whereof for the purpose of this matter, and may prescribe in such an order as said the adjustments and the changes that are required for the purpose of applying the said provisions.
- Amendment of Schedules
355. The Minister, with the approval of the Constitution Committee shall be entitled, in an order, to amend the First Schedule and the Second Schedule, provided that he will add to the Second Schedule only assets that are necessary for the debtor or his family members residing with him for their basic subsistence or the considerations expected from their sale does not justify the harm caused in respect whereof to the debtor or to his family members residing with him.
- Implementation and regulations
356. The Minister shall be in charge of the implementation of this Law and shall be entitled to enact regulations for the purpose of its implementation, including regulations with respect to the following matters:
- (1) The procedures of the law in proceedings under this Law, including provisions regarding the filing of applications under this Law, documents that

will be attached thereto, their filing dates, the filing of objections in respect whereof and duties of publication;

(2) Reporting duties that will apply to the debtor and the trustee, the manner of preparing the reports and the particulars included therein;

(3) With the approval of the Constitution Committee – fees and payments for proceedings conducted under this Law.

(Amendment no. 2)
5779-2019
Transition to an online
system

357. The Minister shall be entitled to state that actions that are performed under this Law, in whole or in part, including reports, publications, the filing of applications and documents, granting a right of inspection or votes will be performed online, provided that a proper solution will be provided to anyone not using online media, and shall be entitled to lay down instructions regarding the manner of performing these online actions.

Part M: Indirect amendments

Repeal of the Bankruptcy
Ordinance

358. The Bankruptcy Ordinance [New Version] 5740-1980, with the exception of section 97 of the Ordinance – is repealed.

Amendment of the
Companies Ordinance –
no. 21

359. (Indirect amendment of the Companies Ordinance [New Version] 5743-1983).

Amendment of the
Companies Law – no. 32

360. (Indirect amendment of the Companies Law 5759-1999).

Amendment of the
Execution Law – no. 58

361. (Indirect amendment of the Execution Law 5727-1967).

Amendment of the
Cooperative Societies
Ordinance – no. 10

362. (Indirect amendment of the Cooperative Societies Ordinance).

Amendment no. 32 of the
Banking Ordinance

363. (Indirect amendment of the Banking Ordinance, 1941).

Amendment no. 12 of the
Civil Wrong Ordinance

364. (Indirect amendment of the Civil Wrong Ordinance [New Version]).

Amendment no. 29 of the
Wage Protection Law

365. (Indirect amendment of the Wage Protection Law 5718-1958).

Amendment no. 68 of the
Securities Law

366. (Indirect amendment of the Securities Law 5728-1968).

Amendment no. 17 of the
Non-Profit Associations
Law

367. (Indirect amendment of the Non-Profit Associations Law 5740-1980).

Amendment no. 93 of the
Courts Law

368. (Indirect amendment of the Courts Law [Consolidated Version] 5744-1984).

Amendment no. 201 of the National Insurance Law	369. (Indirect amendment of the National Insurance Institute Law [Consolidated Version] 5755-1995).
Amendment no. 4 of the Financial Assets Agreements Law	370. (Indirect amendment in the Financial Assets Agreements Law, 5766-2006).
Amendment no. 4 of the Payment Systems Law	371. (Indirect amendment of the Payment Systems Law, 5768-2008).
Amendment no. 5 of the Bank of Israel Law	372. (Indirect amendment of the Bank of Israel Law 5770-2010).

Part N: Commencement, applicability, transitional provisions and temporary provisions

Commencement and applicability	373. (a) This Law shall enter into force 18 months as of the date of its publication (hereinafter – the Commencement Date), and will apply to proceedings under this Law that commenced on the Commencement Date henceforth.
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(b) The provisions of the law that apply to winding-up proceedings under the Companies Law, settlement proceedings or an arrangement in which a stay of proceedings order was issued in accordance with the Companies Law, and bankruptcy proceedings in accordance with the Bankruptcy Ordinance shortly before the Commencement Date will continue to apply to the said proceedings.

Transitional provisions regarding a floating charge	374. If a floating charge is imposed on any of the assets of a corporation, and the said charge was lawfully registered shortly before the Commencement Date, the restrictions on a floating charge as stated in section 244 shall not apply, and the provisions regarding preferential debts set out in section 234 in insolvency proceedings held against a corporation shall not apply thereto, and the provisions regarding preferential debts set out in section 354 of the Companies Ordinance, in its version shortly before the Commencement Date, shall apply in respect whereof, provided that one of the following holds true:
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(1) The floating charge was granted, *inter alia*, as a security for the purpose of ensuring the payment of a debt in respect of credit that was provided prior to the Commencement Date; for the purpose of this matter, if the payment date or the interest rate was changed after the Commencement Date, the credit shall be deemed to have been provided after the Commencement Date;

(2) The insolvency proceedings commenced no later than 18 months as of the Commencement Date.

- Temporary provision regarding the appointment of a trustee
375. (a) If an enactment made prior to the Commencement Date includes a provision in connection with a bankrupt or proceedings in accordance with the Bankruptcy Ordinance, on the Commencement Date the said provision shall be deemed as a provision relating to a natural person in respect of whom an order to commence proceedings was issued under this Law or insolvency proceedings conducted with respect to a natural person under this Law, respectively.
- (b) A receivership order that was issued to a natural person pursuant to the Bankruptcy Ordinance prior to the Commencement Date shall be deemed as another order to commence proceedings pursuant to section 163(c)(4).
- Transitional provisions regarding repeal of the Companies Ordinance
376. Notwithstanding the provisions of section 359 –
- (1) During a period of 5 years as of the Commencement Date, the winding-up arrangements that applied to a non-profit association and a public benefit company in accordance with the Companies Ordinance will continue to apply to the said entities shortly before the Commencement Date, in accordance with the provisions of Chapter G of the Non-Profit Associations Law or the provisions of the first chapter in the ninth part of the Companies Law, as the case may be; the Minister, with the approval of the Constitution Committee, shall be entitled to extend in an order the period by additional periods that will not exceed five years each;
- (2) Section 369 of the Companies Ordinance will continue to be in effect with respect to companies that were delisted pursuant to section 368 of the said Ordinance, prior to the commencement date of the Companies Law.
- Temporary provision regarding the appointment of a trustee (Amendment no. 2) 5779-2019 (Amendment no. 3) 5780-2020
- 376A. (a) During the period as of the Commencement Date and until 17 of Adar 5781 (March 1, 2021) (in this section – the Temporary Provision Period) the trustee listed in the list of trustees formulated under section 37 will not be appointed, and the provisions of Article A in Chapter F will read as follows:
- (1) In section 33 –
- (a) In sub-section (a), the following will be read in the final part of the section, “the appointment of the trustee shall be carried out in accordance with the provisions of sub-sections (b) to (f) or in accordance with the provisions of sections 35 or 36”;

(b) The following will be read instead of sub-section (b):

“(b) The trustee that will be appointed will be a person in respect of whom the Court was convinced that he possesses the proper skills and experience and in respect of whom one of the following holds true: he is a member of the Israel Bar Association, he holds a license pursuant to the provisions of the Accountants Law 5715-1955, or he has possible competency or proven experience in the management of corporations under insolvency proceedings”;

(c) In sub-section (c), anywhere where the words “out of the list of trustees” are used – the said words will be omitted;

(2) In section 34, the words “out of the list of the trustees” will be replaced with the words “in accordance with the provisions of section 33(b) to (f);

(3) In section 36 –

(a) In sub-section (a), instead of the words “is not listed in the list of trustees,” the following words shall be inserted, “he does not satisfy the conditions set out in section 33(b)”;

(b) In sub-section (b), the following words, “who satisfies the conditions set out in section 33(b) and he is not an office holder in a corporation” will be inserted instead of the words “out of the list of trustees,”

(Amendment no. 3)
5780-2020

(b) During the Temporary Provision Period, section 125(b) will be read in such manner that the words “out of the list of trustees formulated under section 126” will be omitted, provided that if a significant increase in the number of insolvency proceedings with respect to a debtor that is a natural person occurred, the Superintendent will consider the need for a corresponding increase in the number of trustees who are entitled to be appointed in accordance with the said criteria.

(c) During the Temporary Provision Period, section 360(10) will be read in such manner that in section 342N(a) of the Companies Law stated therein, paragraph (1) – will be omitted.

Temporary provision
regarding benefit under
Chapter H of the
National Insurance Law

377. During a period of three years as of the Commencement Date, the following provisions shall apply to a benefit under Chapter H of the National Insurance Institute Law:

- (1) The National Insurance Institute that filed a debt claim stemming from the payment of a benefit as said, will be classified as a separate class meeting, for the purpose of approving a financial rehabilitation plan in accordance with the provisions of Article C in Chapter G in Part B of this Law;
- (2) The National Insurance Institute Law will read as follows:

- (a) In section 180, the following shall be inserted in the definitions of “wages,” after the words, “and except for a benefit pursuant to Chapter L,”: “however for an amount that will not exceed the basic amount multiplied by five”;
- (b) In section 182(1A), the words “in which or after which the Court ordered on the winding-up of the corporation” – will be omitted;
- (b)¹ In section 183, the said in this section will be marked as “(a)” and the following shall be inserted after this section:

“(b) Notwithstanding the provisions of sub-section (a), if the Court did not instruct, in an order to commence proceedings pursuant to Chapter D in Part B of the Insolvency and Financial Rehabilitation Law, on the winding-up of the corporation –

- (1) No debt of wages as stated in sub-section (a) will be paid in respect of the period in the five months that preceded shortly before the issuance date of the order;
- (2) The amount of the severance pay and any other amount of the wages debt stemming from rights stemming from termination of employer-employee relationship will be paid in accordance with the provisions of sub-section (a) only if, after the approval of the financial rehabilitation plan by the Court in accordance with the provisions of the Insolvency and Financial Rehabilitation Law or after the approval of the sale of the business activity of the corporation for its financial rehabilitation by the Court under the said law the employee did not continue working in the corporation in respect of

¹ The identical numbers are at source.

which the plan was approved or in the corporation to which the business activity was sold.

(c) The provisions of sub-section (b) shall be without prejudice to the right of the employee to receive additional consideration within the framework of the financial rehabilitation plan in accordance with the provisions of the Insolvency and Financial Rehabilitation Law.”

Preservation of previous regulations

378. Regulations regulated in accordance with the Bankruptcy Ordinance, the Companies Ordinance and the Companies Law (in this section – the Existing Regulations) shall be in effect according to their version shortly before the Commencement Date, as if enacted under the sections in this Law in which the authority for the enactment of regulations is conferred with respect to these matters, unless this Law lays down provisions in their place with respect to the matters that were regulated in a regulation of the Existing Regulations, or if this Law does not confer authority to lay down provisions with respect to the matters regulated under the Existing Regulations, and all as long as the Existing Regulations were not amended or repealed under this Law.

Reporting to the Knesset about debtors that are corporations or natural persons – Temporary Provision

379. (a) The Minister will report to the Constitution Committee, in June 1 in each year, regarding the insolvency proceedings in the year that preceded the date of the report, according to the following information:

(1) With respect to a debtor that is a corporation –

(a) The number of proceedings in which the Court ordered on the operation of the corporation for its financial rehabilitation and the number of proceedings in which the Court ordered on the winding-up of the corporation;

(b) The number of proceedings in which a financial rehabilitation plan was approved or that a final distribution was performed pursuant to section 240, in that year, with an indication of the average scope of the debt therein and the average payment rate in a breakdown to types of creditors;

(2) With respect to a debtor that is a natural person –

(a) The number of proceedings that commenced in Court, the number of proceedings that commenced in the Superintendent and the number of proceedings that commenced in the Execution Offices;

- (b) The number of proceedings in which a payments period was set in that year, with an indication of the average monthly payment and the payments period set out for the debtors, in a breakdown to proceedings that commenced in Court, in the Superintendent or in the Execution Offices, and the district in which they commenced;
- (c) The number of debtors that started training for proper financial conduct in a breakdown to the debtors who completed the training and the debtors who did not complete the training, and the reasons for this, and the number of debtors who could not receive the training and the reasons for this;
- (d) The number of proceedings that ended with a discharge in that year, with an indication of the scope of the average scope of the debt therein, and the average payment rate in a breakdown to types of creditors;
- (e) The number of debtors who started an insolvency proceeding after they already received a discharge in the past.

(b) A report as stated in sub-section (a) will be delivered to the Constitution Committee in two years as of the Commencement Date, for a period of seven years; a comparison of the report will be made in the first three years, to the extent possible, between the average payment rate in accordance with the Companies Ordinance and the Bankruptcy Ordinance, as the case may be, and the average payment rate under this Law.

Reporting to the Knesset
about employees –
Temporary Provision

380. (a) The National Insurance Institute will report to the Constitution Committee, on June 1 in each year, about the following data, in the year that preceded the date of the report:

- (1) The number of employees who received a benefit from the National Insurance Institute as a result of the debt of their employer in proceedings under this Law;
- (2) The number of employees whose wages debt and severance pay debt that their employer owes them exceeds the benefit limit, pursuant to section 183 of the National Insurance Institute Law, and their relative rate out of all eligible employees, and the average of differences between the amount of the said debt and the benefit limit;
- (3) The total amount that the National Insurance Institute paid to employees in respect of the debts of an employer under this Law and the

amount in respect of which the National Insurance Institute did not pay the debts under this Law.

(b) A report as stated in sub-section (a) will include a breakdown to employers who are natural persons and employers that are corporations, and with respect to employers that are corporations – in a breakdown to proceedings in which or after which the Court ordered the winding-up of the corporation and proceedings in which the Court did not order the winding-up of the corporation.

(c) A report under this section will be delivered over a period of three years as of the Commencement Date.

Research – Temporary Provision

381. The Ministry of Justice will conduct research that will accompany the implementation of the provisions of this Law; the research will examine, *inter alia*, the effects of the transfer of the insolvency proceedings to the Execution Offices with respect to natural persons with small debts, and the average payment rates in a breakdown to types of creditors; the Minister will report to the Constitution Committee regarding the results of the research in three years as of the Commencement Date.

First Schedule

Part A (Section 104(b)(3)(b))

Column A Entity	Column B Type of information
1. National Insurance Institute	Information regarding sources of income and amount of income, employer, bank account number and employment status.
2. The Superintendent	Information regarding previous insolvency proceedings in respect of a natural person.
3. The Population and Immigration Authority	Identity card number, personal status and address, and information regarding departures from and entries to Israel.
4. Registrar of Companies	Information regarding shares owned by a natural person and the status of the natural person as an office holder in the company.

5. Registrar of Partnerships	Information regarding the rights of the natural person in the Partnership.
6. The Registrar, as defined in the Shipping Law (Vessels), 5720-1960	Information regarding rights with respect to vessels registered in the name of the natural person.
7. The Director of the Israel Airports Authority or an employee of the authority that the Director authorized for the purpose of managing the register, as defined in the Aviation Law 5771-2011, in accordance with the provisions of section 169(a) of the said law	Information regarding the rights of the natural person in an aircraft, registered in the name of the natural person.
8. The Licensing Authority	Information about vehicles registered in the name of the natural person.
9. The Registrar, as meant by this term in the Registration of Engineering Equipment Law, 5717-1957	Information on equipment, as meant by this term in the said law, registered in the name of the natural person.
10. Israel Land Authority	Information about the rights of the natural person in respect of land managed by the Israel Land Authority.
11. The Lands Registrar	Information about the rights of the natural person that are registered in the land registers.
12. A corporation that keeps in its possession, including by its representative or attorney, registration of rights designated to be registered in the land registers in accordance with an agreement for the sale of an apartment, or a corporation that undertook to handle the registration of the rights as said in the land registers in a contract with the Ministry of Construction and Housing or with Israel Land Authority concerning the sale, lease, or management of land.	Information about the rights of the natural person with respect to land registered in the corporation.
13. Registrar of Pledges	Information about pleadings registered on the assets of the natural person; and at the request of the Superintendent – pledges that are registered in favor of the natural person.

<p>14. The holder of a general license for the provision of intrastate, fixed-line telecommunication services or the provision of mobile telephone services in accordance with the provisions of the Communications (Telecommunications and Broadcasts) Law 5742-1982.</p>	<p>Information regarding the total payments that the natural person was charged in the year that preceded the issuance of the order to commence proceedings.</p>
<p>15. The holder of a distribution license and the holder of a supply license, as meant by these terms in the Electricity Market Law 5756-1996</p>	<p>Information about the expenses of the natural person for electricity consumption in the year that preceded the date of issuance of the order to commence proceedings.</p>
<p>16. Credit card company</p>	<p>Information about the expenses of the natural person in the year that preceded the issuance date of the order to commence proceedings and the loans that the natural person received from the company and the were not paid yet.</p>
<p>17. Banking corporation</p>	<p>The rights of the natural person in the banking corporation, valid bank guarantees that were provided at the request of the natural person and loans that the natural person received from the banking corporation and that were not paid yet.</p>
<p>18. An insurer, as defined in the Control on Financial Services (Insurance) Law, 5741-1981</p>	<p>The rights of the natural person towards the insurer, valid guarantees that were provided at the request of the natural person and loans that the natural person received from the insurer and that were not paid yet.</p>
<p>19. A managing company, as defined in the Control of Financial Services (Provident Funds) Law, 5765-2005</p>	<p>The rights of the natural person in a provident fund that is managed by the managing company and the loans that the debtor received from the managing company or from the funds of the provident fund under its management and that were not paid yet.</p>
<p>20. Courts' Directorate</p>	<p>Judgments in claims for a monetary relief or a relief with monetary value to which the natural person is a party and guarantees,</p>

	sureties or deposits provided therein; and with regard to a pending proceeding – the proceeding number and the court in which the proceeding is heard.
21. Center for Fines Collection, Fees, and Expenses	Information about the debts of the natural person that are collected by the Center for Collection of Fines, Fees, and Expenses and sums due to the natural person from the Center.
22. The Inheritance Registrar	An inheritance order and an order of probate in which the debtor is one of the heirs, and a notice regarding the withdrawal of the debtor pursuant to section 6 of the Succession Law 5725-1965.

Part B
(Section 147)

Column A Entity	Column B Type of information
1. Banking corporation	Information about the transactions in a bank account that is a current account of the natural person in the year that preceded the date of issuance of the order to commence proceedings.
2. Credit card company	Information regarding the expenses of the natural person in the year that preceded the date of issuance of the order to commence proceedings.

Second Schedule
(Section 217)

Assets not included in the assets of the insolvency estate

- (1) Food and food products that the debtor and his family members residing with him need for their subsistence;
- (2) Articles of clothing, beds, bedding, medical supplies, medications, kitchenware, houseware, and other household items that the debtor and family members residing with him need;
- (3) Religious artifacts used by the debtor and the family members residing with him;
- (4) Tools, devices, machinery, and other movable property items including vehicles and animals, without which the debtor cannot perform his profession, work, occupation, or labor that are the source of his livelihood and the livelihood of the family members residing with him, provided that the estimated value of each does not exceed the amount set out by the Minister;
- (5) If the debtor or his family member residing with him is a disabled person – tools, devices, machinery, other movable property items including vehicles and animals that are the property of the disabled person and that the disabled person needs for his personal use on account of his disability;
- (6) Pets; “pets” for the purpose of this matter – an animal kept at the house or the premises of the debtor and that is not used for commercial purposes;
- (7) Movable property, as stated hereunder, that the debtor or family members residing with him need, provided that their estimated value does not exceed the amount prescribed by the Minister:
 - (a) A personal computer and a printer: “computer” for the purpose of this matter – as defined in the Computers Law 5755-1995, except for a system of computers;
 - (b) A TV set and a radio set;
 - (c) A landline or mobile phone;
 - (d) A washing machine and a drier;
- (8) Articles of special sentimental value for the debtor, provided that their estimated value does not exceed NIS 4,000 or any other amount prescribed by the Minister.

Third Schedule

(The definition of a “foreign country” in section 293)

Taiwan and the Special Administrative Region Hong Kong