

**LEGISLATIVE DECREE
NO. (11) OF 1987 PROMULGATING
THE BANKRUPTCY AND
COMPOSITION LAW**

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PROMULGATING
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We, Isa Bin Salman Al Khlifa,
Bahrain

Amir of the State of

Having examined the Constitution,
And Amiri Order No. 4/1975,
And Legislative Decree No. 7/1987 with respect to
Promulgating the Law of Commerce,
And upon the submission of the Minister for Commerce,
And with the approval of the Council of Ministers,
HEREBY PROMULGATE THE FOLLOWING LAW:

Article 1

The Bankruptcy and Composition Law which is attached to this Legislative Decree shall come into force and any provisions conflicting therewith shall be repealed.

Article 2

The Ministers, each in his respective capacity, shall implement the provisions of this Law, which shall come into effect from the first day of the third month from the date of its publication in the Official Gazette.

Isa Bin Salman Al Khalifa
Amir of the State of Bahrain

Issued at Riffa'a Palace

26 Ramadhan, 1407 Jijra

23 May, 1987

BANKRUPTCY AND COMPOSITION LAW

CHAPTER 1

ADJUDICATION OF BANKRUPTCY

Article 1

- 1) A merchant who, as a result of disorder of his financial affairs, suspends payment of his commercial debts is deemed to be in a state of bankruptcy and should be adjudged bankrupt by a court order made to that effect.
- 2) The state of bankruptcy is created by the court judgement adjudicating bankruptcy. Suspension of payment of debts shall not, without such judgement, have any effect unless otherwise provided by the law.

Article 2

- 1) A merchant shall be adjudged bankrupt at his own request, the request of one of his creditors or the Public Prosecutor. However, the Court may adjudicate a merchant bankrupt of its own motion.
- 2) A merchant may be adjudged bankrupt after his death or the cessation of commercial activities if such death or cessation of activities takes place while the merchant is in a state of suspension of payment. A petition requiring adjudication of bankruptcy shall be submitted within the year following death or cessation of activities. This period shall commence in the case of cessation of activities from the date of striking off the merchant's name from the Commercial Register.
- 3) The Bankruptcy petition in the case of death of the merchant shall be served to all the heirs of the deceased at his last domicile.
- 4) The heirs of a merchant may, subsequent to his death, submit a petition requiring adjudication of his bankruptcy within the period prescribed in paragraph 2. Where adjudication of bankruptcy is not

required by all the heirs the Court shall hear the statement of the heirs who have not participated in submission and shall decide on the application in accordance with the interests of the parties concerned.

Article 3

- 1) A merchant shall submit his petition requiring adjudication of his bankruptcy within thirty days from the date of suspension of payment. The petition shall be in a form of a report to be submitted to the Clerks Department at the Court stating the grounds for suspension of payment.

The report shall be accompanied by the following documents:

- a) the main commercial books.
 - b) a copy of the latest balance sheet and profit and loss account.
 - c) a statement of the total personal expenses incurred during the two years preceding the submission of the petition requiring adjudication of bankruptcy or the total period of conducting commercial business where such period is shorter.
 - d) a statement of the immovable and movable properties owned by the petitioner, and their estimated value at the date of suspension of payment.
 - e) a statement of the names, domiciles, amount and securities of the debts of both his debtors and creditors.
 - f) a statement of non-payment protests made against the merchant during the two years preceding submission of the petition for adjudication of bankruptcy.
- 2) All these documents shall be dated and signed by the merchant. If any of these document is not be submitted, a statement of the reasons preventing submission should be included in the report The Clerks

Department shall prepare a statement acknowledging the receipt of the documents submitted by the merchant.

Article 4

- 1) Any creditor owed an immediately payable commercial debt may submit a petition requiring that his merchant debtor be adjudged bankrupt if such merchant has suspended payment of the debt due to disorder of his financial affairs.
- 2) Any creditor owed a commercial debt which has matured may submit a petition requiring his merchant debtor be adjudged bankrupt if has not known domicile or if he absconds, closes down his place of business indicating cessation of commercial activities, commences to liquidate his business or does any act which is detrimental to his creditors provided the creditor produces evidence of his debtors failure to pay this matured commercial debts.
- 3) Any creditor owed an immediately payable commercial debt is entitled to submit a petition requiring that his merchant debtor be adjudged bankrupt provided that he produces evidence establishing his debtors failure to pay immediately payable debts.

Petitions requiring adjudication of the bankruptcy of a debtor shall be submitted in the normal manner for raising legal actions.

Article 5

- 1) If the Public Prosecutor submits an application for the adjudication of bankruptcy of a merchant or if the Court decides of its own motion to adjudicate his bankruptcy, the Court Clerks shall notify him of the date fixed for hearing by virtue of a registered letter accompanied by acknowledgment of receipt.

- 2) In the event of the merchant death or cessation of commercial activities, the Court may not consider adjudication of bankruptcy of its own motion or at the request of the Public Prosecutor after the lapse of the date prescribe by Article 2(1).

Article 6

- 1) The President of the Court having jurisdiction to hear the petition for the adjudication of bankruptcy may order that the necessary steps be taken for preservation of the debtor's property or the management thereof pending the decision of the Court regarding the bankruptcy petition.
- 2) The President of the Court may appoint one of the Court judges or an expert to investigate the debtor's financial affairs and reasons for suspension of payment of debts and submit his report to the Court. He may also appoint one of the members of the office of the Public Prosecutor to investigate such mailer.

Article 7

The High Court shall have jurisdiction to consider adjudication of bankruptcy and hear law suits arising from the bankruptcy. A law suit is deemed to arise from the bankruptcy if it relates to the management of the bankruptcy or a decision thereon requires the application of the bankruptcy rules. Legal actions pertaining to debts owed to or by the bankrupt shall not be considered as part of the management.

Article 8

- 1) The Court shall fix a provisional date for suspension of payment in its judgement of adjudication of bankruptcy. The Court shall designate

one of the Court judges to act as a bankruptcy judge and shall order the placing of the seals on the debtor's place of business.

- 2) The Court may, if required, place the bankrupt under supervision, and the Public Prosecutor shall immediately carry out such supervision.
- 3) The Court Clerks Department shall send a copy of the bankruptcy adjudication judgement once it has been passed to the Public Prosecutor, Bankruptcy trustee, Commercial Registry and the Land Registration Directorate.

Article 9

- 1) If the Bankruptcy adjudication judgement does not specify the date of suspension of payment, the date of the judgment adjudicating bankruptcy shall be deemed as a provisional date for suspension of payment.
- 2) Where the adjudication of bankruptcy judgement is passed after the death of, or cessation of business activities by the merchant, the provisional date for suspension of payment shall, if it is not specified therein, be the date of the death of or the date of cessation of business activities by the merchant.
- 3) The Court may, of its own motion, or upon application being made by the Public Prosecutor, the debtor, a creditor, the bankruptcy trustee or any other interested party, amend the provisional date for suspension of payment to be after the lapse of ten days from the date of filing the list of established debts with the Court Clerks in accordance with Article 98 (1). The specified date shall become after the lapse of the period fixed by Article 98.
- 4) The date of suspension of payment may not be back-dated to more than two years from the date of passing the bankruptcy adjudication judgment.

- 5) In determining this date, resort to harmful or illegal means for the payment of debts is deemed to be suspension of payment.

Article 10

- 1) The judgement adjudicating bankruptcy changing the date of suspension of payment shall be entered in the Commercial Register in accordance with the provisions regulating maintenance of the Register.
- 2) The Bankruptcy trustee shall advertise a summary of the bankruptcy judgement in the Official Gazette and one local (3) newspaper or more designated by the Court in the bankruptcy adjudication judgement. The advertisement shall take place within ten days from the date of passing the judgement. The summary of the bankruptcy judgement shall include the bankrupt's name, domicile, commercial registration number, the Court which has passed the judgement, date of passing the judgement, provisional date for suspension of payment, the name of the bankruptcy judge, name of bankruptcy trustee and his address. The advertisement shall include also call to the creditors to submit their claims for the debts of the bankruptcy. The advertisement of the summary of the judgement amending the date of suspension of payment shall include, in addition to the above stated particulars, the new date fixed by the Court.

Article 11

- 1) An interested party who is not one of the litigants may as an Interpleader object to the judgement adjudicating bankruptcy and any other judgements passed in legal actions arising from the bankruptcy within ten days from the date of the last advertisement of the summary of judgement in the newspapers.

- 2) Without prejudice to the provisions of Article 9 (3), the period fixed for objection against any default decree passed in respect of legal actions arising from the bankruptcy shall be ten days from the date of notification thereof unless it is imperative to advertise such judgement in which case the period fixed shall commence from the date of advertisement.
- 3) The prescribed period for appeal against judgements passed - on a petition requiring adjudication of bankruptcy and other judgments passed on of legal actions arising from the bankruptcy shall be fifteen days. The Bankruptcy trustee shall be a party to such appeals.

Article 12

Bankruptcy legal actions shall be immediately heard and any judgements passed in respect thereof shall be immediately executed without bail unless otherwise provided.

Article 13

The following actions are unappealable:

- 1) Judgement relating to the appointment, dismissal or replacement of the bankruptcy judge, trustee or supervisor.
- 2) Rulings made against orders passed by of the bankruptcy judge.
- 3) Orders overruling attachment procedures taken against the bankrupt.
- 4) Judgements passed to suspend the bankruptcy proceedings pending decision on an appeal against the order of the bankruptcy judge with regard to the admission or rejection of claims.
- 5) Judgements on the provisional admission of disputed debts.

Article 14

If, on the date of adjudication of bankruptcy, no money is readily available to meet the expenses for adjudication of the bankruptcy judgement, its advertisement, appealing it, placing of seals on the bankrupt's properties or the lifting thereof or attachment of the bankrupt's assets, such expenses shall be paid from the Court Treasury by an order of the bankruptcy judge and such amounts shall have priority in repayment over all creditors from the first monies received in the Bankruptcy account.

Article 15

If, before the adjudication of bankruptcy attains the status of a res judicata, the debtor is able to pay all civil and commercial debts owed by him, the Court shall pass judgement cancelling the adjudication of bankruptcy, provided that all costs related to this action shall be borne by the debtor.

Article 16

- 1) Where the Court rejects the petition requiring bankruptcy submitted by the debtor, it may sentence him to pay a fine of no less than BD 200 and no more than BD 1,000 if it is established thereto that he has intentionally pretended to be bankrupt.
- 2) Where the Court rejects a petition requiring bankruptcy submitted by a creditor, it may with prejudice to the debtor's right to claim compensation sentence him to payment of the fine prescribed by the preceding paragraph and shall advertise the judgement at his expense in one local newspaper or more to be selected by the Court if it is established that it was the creditors intention to harm the debtor's commercial reputation.

CHAPTER 2
ADMINISTRATORS OF BANKRUPTCY

Article 17

- 1) The Court shall appoint in the bankruptcy judgement an agent for the administration of the bankruptcy and liquidation its funds, and such agent shall called "the Bankruptcy Office".
- 2) In all cases, the Bankruptcy judge may order of his own initiative or at the request of the bankrupt or the supervisor appointed from among the creditors in accordance with the provisions of Article 27, the addition of one trustee or more, not exceeding three in number.

Article 18

The spouse, relative or spouse's relative to the fourth degree, a partner, employee, accountant or agent of the bankrupt during the two years which preceded the adjudication of bankruptcy may not be appointed as trustee of the bankruptcy.

A Bankruptcy trustee shall not be appointed if he has been finally convicted for a felony, misdemeanor, theft, embezzlement of fund, breach of trust, misappropriation, fraud, bankruptcy by default or perjury.

Article 19

- 1) The Bankruptcy trustee shall undertake the administration of the bankrupt funds, preservation thereof and shall act on behalf of the bankrupt in all transaction required for such administration.
- 2) The Bankruptcy trustee shall enter on a daily basis all actions relating to the administration of the bankruptcy in a special book, the pages of which shall be numbered and signed or stamped by the bankruptcy judge who shall also make an entry at the end of the book indicating its completion.

- 3) The Court, bankruptcy judge and the supervisor shall have have the right to peruse book at all times, and subject to the permission of the bankruptcy judge the bankrupt may peruse the book.

Article 20

- 1) If there is more than one Bankruptcy trustee, they shall act collectively and shall be jointly liable for theft administration.
- 2) However, the bankruptcy judge may divide the work amongst the several trustees, or assign a specific duty to one of them, in which case the Bankruptcy trustee shall not be liable except for the duties assigned to him.
- 3) The Bankruptcy trustee may authorise each other to perform of duties assigned to them. However, they may not be authorise to third parties to act on their behalf except with the permission of the bankruptcy judge. The Bankruptcy trustee and the person acting on his behalf shall be jointly liable for the aforesaid duties.

Article 21

The bankrupt as well as the supervisor may object to the bankruptcy judge against the acts of the Bankruptcy trustee before the completion thereof. Raising of the objection shall suspend the action. The bankruptcy judge shall decide on the objection within five days from the date of its submission. The decision of the bankruptcy judge shall be immediately executed.

Article 22

The Court may of its own motion, at the request of the bankruptcy judge, the Bankruptcy trustee or the auditor, order the dismissal of the Bankruptcy trustee, the appointment of a replacement or the reduction of

the number of Bankruptcy trustee in case there is C' more than one. The Court shall decide such application within ten days from the date of submission.

Article 23

- 1) The Court shall determine the fees and expenses of the Bankruptcy trustee by a resolution of the bankruptcy judge when the trustee has presented a report on his administration.
- 2) The bankruptcy judge may order that payments be made to the Bankruptcy trustee before submission of the report, on the account of his fees.
- 3) Any concerned party may object before the Court against the rulings of the bankruptcy judge with respect to the assessment of the fees and expenses of the Bankruptcy trustee.

Article 24

- 1) The bankruptcy judge shall, in addition to the powers granted to him, by special provisions, supervise the administration of the bankruptcy, supervise the progress of the proceedings and take the necessary measures required for safeguarding its assets.
- 2) He shall call creditors to a meeting in the situation prescribed by the Law and shall preside over such meeting.
- 3) He shall submit to the Court a report every three months on the state of the bankruptcy provided the Court has jurisdiction to hear such disputes.
- 4) He shall have the power at all times to summon the bankrupt, his heirs, agent, employees or any other person for hearing theft testimony with regard to the affairs of the bankruptcy.

Article 25

- 1) The decisions passed by the bankruptcy judge shall be lodged with the Court Clerks on the following day of passing of such judgement. The judge shall be empowered to instruct the Court Clerks to notify such decisions to the persons designated by him. The said notification shall be made by registered letters accompanied by delivery notes.
- 2) Decisions passed by the bankruptcy judge shall be unappealable except where the law provides otherwise or where the judge is not competent to take such decisions.
- 3) The appeal shall be filed with the Court Clerks within ten days from the date of lodging thereof or notification, as the case may be, and the Court shall consider it at its next session. Execution of appealable decision shall be suspended pending decision unless the law provides otherwise.

Article 26

- 1) The Court may at any time decide to replace the bankruptcy judge by another from among the Court judges.
- 2) In case of a temporary absence, the Court President shall nominate another judge to sit on behalf of the bankruptcy judge.

Article 27

- 1) The bankruptcy judge shall appoint one supervisor or more from among creditors who nominate themselves for the assignment.
- 2) The bankrupt and every creditor shall have the right to appeal against the decision of the bankruptcy judge with respect to the appointment of the supervisor, but such appeal shall not suspension of execution of such decision.

Article 28

The supervisor or the representative appointed by a corporate body to act as supervisor may not be a spouse, relative or a relative in-law to the fourth degree of the bankrupt.

Article 29

- 1) In addition to the powers granted to him the supervisor shall, by special provisions review the balance sheet and the report submitted by the debtor and assist the bankruptcy judge in supervising the performance of the bankruptcy trustee.
- 2) The controller may seek clarifications from the bankruptcy officer concerning the progress of the proceedings, expenses and state of suits related thereto.

Article 30

- 1) The supervisor shall not be entitled to any remuneration for his work.
- 2) The supervisor may be discharged by an order of the bankruptcy judge.
- 3) The supervisor shall only be liable for gross negligence.

CHAPTER 3

EFFECTS OF BANKRUPTCY

Section 1

Effects of Bankruptcy on to the Debtor

Article 31

- 1) The Court may of its own motion or at the request of the bankruptcy judge, Public Prosecutor or Bankruptcy trustee order at any time the placing of the bankrupt under supervision if he deliberately conceal

his properties or books or refuse to perform the decisions of the Bankruptcy judge or Court. The bankrupt may appeal against such order but his appeal shall not have the effect of suspending the implementation thereof.

- 2) The Court may decide at any time to lift the surveillance from the bankrupt.

Article 32

The bankrupt may not leave the country except with a permission from the bankruptcy judge. He shall also notify the Bankruptcy trustee of any new residence in the event of any change of domicile.

Article 33

- 1) Any adjudicated bankrupt may not elect or become a member of parliament, municipal council, Bahrain Chamber of Commerce and Industry or any professional society. He may not become a manager or a director of any company nor carry on the business of commercial agency or any import and export business, stockbrokerage business involving the sale or purchase of securities or sale by a public auction.
- 2) An adjudicated bankrupt may not manage properties on behalf of other. However, the competent court may authorise him to administer the properties of his minor children, if such administration is not detrimental to them.

Article 34

- 1) Upon the passing of the adjudication of bankruptcy judgement, the bankrupt person shall be prohibited from the administration and disposal of his properties. All disposals undertaken by the bankrupt

person on the date of judgement shall be deemed to have taken place subsequent to the judgement.

- 2) Where the disposal is one which cannot be effective towards third parties except by a registration, entry or other procedures, it shall not be valid against the body of creditors unless such formalities have been carried prior to the adjudication.
- 3) The prohibition of the bankrupt person to dispose of his properties shall not prevent him from taking the required measures for safeguarding his interests.

Article 35

- 1) A bankrupt may not, after the adjudication of bankruptcy, discharge the debts due from him nor collect debts owed to him.
- 2) However, the value of a commercial paper held by the bankrupt may be paid to him on the date of maturity, except where the bankruptcy trustee objects to such satisfaction. An objection to the payment of the value of a bill of exchange shall be entertained in the case of its loss or bankruptcy of its holder.

Article 36

Subsequent to an adjudication of bankruptcy, a set-off may not be carried out between the rights and obligations of the bankrupt unless they are interrelated. An interrelation exists, in particular, where the said rights and obligations have been created by the same cause or are included in a current account.

Article 37

- 1) The prohibition imposed on the bankrupt shall extend to all properties owned by him on the date of the judgement as well as properties acquired by him while he is in a state of bankruptcy.
- 2) However, the prohibition shall not extend to the following:
 - a) Proxies which may not be attached according to the provisions of the law and the financial assistance granted to him.
 - b) The properties owned by third party.
 - c) The rights relating to the person of the bankrupt or his personal status.
 - d) Compensations which accrue to the beneficiary of a valid insurance policy executed by the bankrupt person prior to the passing of bankruptcy judgement. However, the beneficiary shall return to the bankruptcy all the insurance premiums paid by the bankrupt commencing from the date fixed by the Court for suspension of payment, unless the law otherwise provides.

Article 38

- 1) Where an estate devolves to the bankrupt, his creditors shall have no right over its assets until the creditors of the deceased receive their dues from such assets and the creditors of the deceased shall have no rights over the assets of the bankruptcy.
- 2) The Bankruptcy trustee shall, under the supervision of the bankruptcy judge, liquidate the assets and satisfy the debts of the estate which devolved to the bankrupt. All actions relevant to the assets of the estate and the execution proceedings thereon shall be suspended immediately upon the adjudication of bankruptcy until the liquidation of the estate is completed.

Article 39

- 1) Only the following cases may be proceeded with or initiated by or against the bankrupt after the passing of a judgement for the adjudication of bankruptcy:
 - a) cases relevant to the assets and disposals not covered by the prohibition imposed upon the bankrupt person.
 - b) suits relating to the business of the Bankruptcy which he is permitted to perform under the law.
 - c) criminal cases.
- 2) The court may allow the joinder of the bankrupt as a party in suits related to the bankruptcy and may also allow joinder of the creditor to be a party in such cases where he has an interest therein
- 3) Where criminal proceedings or action, relating to the person or the personal status of the bankrupt are brought by or against him, the Bankruptcy trustee must be joined if it involves financial claims.

Article 40

Where, after being adjudicated bankrupt, a bankrupt person is ordered to pay compensation for damages caused to third party, the creditor winning the judgement may claim the decreed compensation from the bankruptcy, unless it is established that he has conspired with the bankrupt.

Article 41

- 1) The bankruptcy judge may, after hearing the statements of the Bankruptcy trustee, upon the application of the bankrupt or his dependents determine payment of financial assistance to the bankrupt and his dependents from the assets of the bankruptcy.
- 2) The applicant for the financial assistance and the bankruptcy trustee shall be entitled to appeal the assessment thereof before the Court, but such appeal shall not suspend the payment of such assistance.

- 3) The bankruptcy judge may, at any time, when requested by the Bankruptcy trustee amend the amount of the financial assistance or order the cancellation thereof. In addition, the (2) bankrupt person and his dependents may request increasing the amount of the financial assistance, and this decision may be appealed against before the Court.
- 4) Payment of the financial assistance shall cease upon approval of composition.

Article 42

The bankrupt may, by the permission of the bankruptcy judge, carry on new business using monies which are not part of the bankruptcy, provided that the same is not detrimental to the creditors. Creditors whose debts are created on the occasion of this trade shall have priority to recover their rights from its assets.

Article 43

The following disposals may not be claimed against the creditors if effected by the debtor after the date of suspension of payment and before the adjudication of bankruptcy:

- 1) All donations other than small presents which are customary.
- 2) Any kind of premature discharge of debts; the creation of a consideration for the discharge of an unmatured negotiable instrument shall be deemed as discharge.
- 3) Payment of maturing debts by other than the thing agreed; discharge by negotiable instruments or a bank transfer shall be deemed as cash payment.
- 4) Any mortgage or other agreed security imposed upon the debtor's assets to secure a previous debt.

Article 44

Disposals other than those mentioned in the preceding Article performed within the time limit stated therein may be adjudged as invalid against the body of creditors where the disposal is detrimental to them and the disposing party was aware at the time of the disposal of the bankrupts' suspension of payment.

Article 45

Where the bankrupt pays the value of a negotiable instrument after the date of suspension of payment but before the adjudication of bankruptcy, the sum paid is not recoverable from the holder, but the drawer or the party for whose account the negotiable instrument was drawn shall refund the value paid to the bankruptcy, if at the time of making the negotiable instrument he was aware of the bankrupts' suspension payment. The obligation to refund, in the case of a promissory note, is the liability of the first endorser if at the time of obtaining the note he was aware of the bankrupts' suspension payment.

Article 46

- 1) A judgement may be entered for non-validity of registration of the rights of a mortgage or of a priority established on the debtor's assets against the body of creditors where the registration is made after the date of suspension of payment and after the lapse of fifteen days from the date of establishing the mortgage or priority.
- 2) The mortgagee or the person entitled to priority who comes next after the mortgage adjudged invalid shall take the order of such mortgagee; nonetheless, he shall be given only such part of the proceeds of the sale of the mortgaged property or the one subject to priority as would

have been obtained had the preceding mortgage been valid and the difference shall pass to the body of creditors.

Article 47

- 1) Where a judgement is entered for the non-validity of a disposal against the body of creditors, the assignee shall refund to the bankruptcy whatever he has obtained from such disposal or the value of such thing at the time of the receipt. He shall also pay interest on what he had received or the fruits thereof from the date of receipt.
- 2) The assignee is entitled to recover the consideration given to the bankrupt person if such consideration is still available in the bankruptcy. Where such consideration is not available the assignee shall be entitled to claim against the body of creditors the benefit obtained by it from the disposal and to participate in the bankruptcy in his capacity as an ordinary creditor, with regard to the surplus.

Article 48

The Bankruptcy trustee may solely apply for invalidation of the acts of disposal made by the bankrupt person prior to the adjudication of bankruptcy to harm the creditors in accordance with the provisions of the action of invalidity of the disposal by the debtor to harm his creditors. A judgement invalidating the disposal entails its invalidity against all creditors, regardless of whether theft rights have arisen before or after the disposal.

Article 49

Actions based on the application of the provisions of Articles 43, 44, 45, 46 and 48 shall be statute-barred after the lapse of one year from the date of the judgement of bankruptcy.

Section 2

Effects of Bankruptcy on the Creditors

Article 50

- 1) The passing of the judgement adjudicating bankruptcy shall have the effect of suspending all individual actions raised by secured and unsecured creditors.
- 2) The creditors referred to in the preceding paragraph may not commence execution proceedings against the bankrupt's assets nor for the completion of the proceedings which had been commenced prior to the adjudication of the bankruptcy judgement. However, where a date has been fixed for the sale of the bankrupt person's real property, the execution proceedings may be continued provided permission is obtained from the bankruptcy judge, proceeds shall be credited to the Bankruptcy.
- 3) Mortgagors and creditors holding specific priority rights may initiate or proceed with actions against the Bankruptcy trustee and may also execute or proceed with the execution against the property securing their rights.

Article 51

- 1) A judgement adjudicating bankruptcy shall have the effect of cancelling maturities of all cash debts due from the bankrupt whether secured or unsecured and by general or specific charge.
- 2) Where the debts are denominated in a currency other than that of the State of Bahrain when the adjudication of bankruptcy judgement is passed, they shall be converted to the currency of the State of Bahrain at the official rate of exchange on the date of the judgement of bankruptcy.

Article 52

- 1) A judgement adjudicating bankruptcy shall suspend charging of interest on ordinary debts with regard to the group of creditors only.
- 2) Interest on debts secured by a mortgage or a priority right may not be claimed except from the proceeds of the sale of the assets offered as security for such debts. The principal sum shall be recovered first, followed by the interest accruing before the adjudication of bankruptcy, followed by the interest accruing after the judgement.

Article 53

The Court shall have the power to deduct from the unmatured debt for which no interest is stipulated, an amount equal to the legally prescribed interest for the period from the date of adjudication of bankruptcy to the date of maturity of the debt.

Article 54

Debts subject to a rescinding condition precedent may participate in the bankruptcy provided a guarantor is introduced. The share of debts subject to a condition precedent shall be set aside pending the outcome of the condition precedent.

Article 55

- 1) Where one of the several persons liable for the same debt is adjudged bankrupt with respect to such debt, such bankruptcy shall not have any effect with regard to other persons liable therefor, unless the law provides otherwise.

- 2) Where settlement is reached with the bankrupt liable for the aforesaid debt, the conditions thereof shall not apply to the other persons liable for the debt.

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Article 56

If part of the debt is satisfied by one of the debtors followed by the bankruptcy of other debtors liable for the same the creditor may participate in these bankruptcies except with respect to the remaining balance of his debt only. He shall retain his right to claim against the non-bankrupt debtors may participate in each bankruptcy with respect to the amount of the debt paid by him.

Article 57

- 1) When several persons liable for a debt are simultaneously adjudged bankrupt, the creditor may participate in respect of all his debt until he recovers the principal sum of his debt as well as interest and expenses.
- 2) A bankruptcy may not have recourse against another bankruptcy in respect of any sum paid on its behalf.
- 3) Where the total sum received by the creditor is in excess of his debt and other amounts payable thereunder, the surplus reverts to the bankruptcy of a debtor who is guaranteed by the others according to the priority of their liability on the debt. In the absence of such priority, the surplus shall revert to the bankruptcies which paid more than their share of the debt.

Section 3

Creditors whose debts are secured by a mortgage or charge over movable property

Article 58

The names of the creditors secured by a mortgage or charge on movable property shall be included in the list of the group of creditors as a reminder with reference to the mortgage or charge.

Article 59

After obtaining permission of the bankruptcy judge the bankruptcy trustee may pay the debt secured by a mortgage on a movable property and recover the mortgaged movable for the account of the group of creditors.

Article 60

- 1) If the mortgage property is sold, at the request of the mortgagee, at a price exceeding the amount of the debt, the Bankruptcy trustee shall receive the surplus sum for the account of the group of creditors. Where the price is less than the amount of the debt, the mortgagee shall participate with regard to the balance remaining due in the bankruptcy as an unsecured accordance with creditor, provided his debt is established in the provisions of this Law.
- 2) The Bankruptcy trustee may also send notice by registered mail with an acknowledgement slip to the mortgagee requesting him to take legal proceedings for execution against the mortgaged property before the state of the union is terminated, If the mortgagee fails to take such proceedings, the bankruptcy judge may, at the request of the Bankruptcy trustee and after hearing the statements of the mortgagee or after service of notice on him by a registered letter with an acknowledgement slip, grant leave to the bankruptcy officer to sell the mortgaged movables. The order of the bankruptcy judge granting leave to sell shall be served on the mortgagee. Such mortgagee may appeal the order, provided that such action shall not result in the

suspension of its execution unless the Court malces an order to the contrary.

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Article 61

- 1) The Bankruptcy trustee shall, subject to leave from the bankruptcy judge, pay within ten days following the passing of the bankruptcy judgement out of the monies under his hand and in spite of the existence of any other debt, the wages, salaries and other amounts which accrued prior to the adjudication for 30 days to the staff, if the bankruptcy trustee does not have in possession the amounts required to pay the said debts, payment shall be made from the first monies collected, even when there are other debts preceding them in the order of priority.
- 2) If the Bankruptcy trustee settles such debts out of his own funds or if they are settled by another person, the Bankruptcy trustee or the person making such settlement shall replace the parties concerned with respect to theft rights and shall recover his debt from the first monies included in the bankruptcy without any objection being made by any other creditor.

Article 62

- 1) The owner of a real property leased to the bankrupt shall, where the lease is terminated in accordance with Article 68 hereof, have a priority right in respect of the year preceding the passing of the Bankruptcy judgement and the current year, over all that relates to the performance of the lease agreement and the damages which may be awarded.
- 2) Where the movables in the lease of a real property are sold or moved, the lessor may exercise his right of priority in the manner prescribed

in the preceding paragraph with respect to the termination of the lease agreement.

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Article 63

The bankruptcy judge may, upon the motion of the Bankruptcy trustee, order, where necessary, the application of the first monies collected for the bankruptcy account to pay the debts of creditors having priority over the bankrupt person's movables, whose names are included in the final list of the undisputed debts referred to in Article 102 (1). Where a dispute arises with regard to the priority, payment may not be made until the dispute is settled by a final judgement.

Section 4

Creditors with debts secured by mortgage

or charge over a real property

Article 64

If the distribution of the proceeds of immovable properties precedes distribution of proceeds of movable properties, or if the two distributions are made simultaneously, mortgagees or chargees who have not recovered all or part of their debts from the proceeds of the immovable properties may participate with the unsecured creditors in the distribution of monies to which relates the right of the group of creditors, provided that their rights are established in accordance to the provisions of the Law.

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Article 65

- 1) Where one distribution or more of the proceeds of movable properties is made prior to the distribution of the proceeds of immovable properties, the mortgagees or chargees shall be entitled to participate

in the distributions with respect to their debts, provided that they are duly established.

- 2) Subsequent to the sale of immovable properties and the final settlement in accordance with the priority of the mortgagees and chargees, any creditor who qualifies him according to his priority to receive his entire debt from the proceeds of the immovable property shall not receive the value of debt except after deducting the amount which he has obtained from the earlier proportionate distribution in accordance with the preceding paragraph any such amount shall be refunded to the group of unsecured creditors.
- 3) Where according to his priority a creditor qualifies to receive only part of his debt, he shall refund to the group of creditors the amount which exceeds what he would have received had the distribution of the real property, subject to the mortgage or priority, been made prior to distribution of the price of movables and shall participate in the bankruptcy with regard to the balance of his debt.

Article 66

Mortgages or holders of charges who do not receive any part from the price of immovable properties over which they hold securities shall be deemed unsecured creditors and as such they shall be subject to all effects resulting from the acts of the group of Q creditors and from the legal composition, if any.

Section 5

Effect of bankruptcy with regard to valid contracts executed prior to adjudication

Article 67

- 1) Contracts legally binding between the parties to which the bankrupt is a party shall not be rescinded by a judgement of bankruptcy, unless they are based on personal considerations.
- 2) If the Bankruptcy trustee does not perform the contract or does not continue in performing it, the other party may apply for recession. Every decision taken by the bankruptcy trustee with regard to the contract shall be referred to the bankruptcy judge for approval. The other party may fix a period for the Bankruptcy trustee to state his position with regard to the contact.
- 3) The other party may participate in the bankruptcy with the amount of compensation resulting from the recession.

Article 68

- 1) Where the bankrupt is a lessee of the premises where he carries on his business, the lease agreement shall not be terminated the payment and the amount of rent for the remaining term of the lease agreement shall not become payable by the adjudication of bankruptcy; any provision to Km the contrary shall be null and void.
- 2) If the lessor has already commenced execution over the movable properties in the leased property but execution has not been completed on the date of the bankruptcy judgement, a stay of execution shall be ordered for a period of sixty days from the date of the judgement without prejudice to the right of the lessor to take provisional measures and to claim eviction of the leased property according to the applicable principles. In this case, the stay of execution shall be terminated without the need for passing a judgement to this effect. The bankruptcy judge may if he deems necessary issue an order extending the stay of execution for a further period of 30 days. The Bankruptcy

trustee may, during the stay of execution notify the lessor of his intention to terminate the lease.

- 3) If the Bankruptcy trustee decides to continue the lease, he shall pay the arrears of rent and provide adequate security for the payment of future rent. The lessor may within 15 days from the date of notification by the trustee to continue the lease apply to the Court for termination of the lease where the security is not adequate.
- 4) Subject to the approval of the bankruptcy judge, the Bankruptcy trustee may sublet or assign the lease, even when the bankrupt is forbidden to do so under the terms of the lease agreement, provided that such action shall not be detrimental to the lessor.

Section 6

Recovery

Article 69

- 1) Any person is entitled recover from the bankruptcy such things to which his title is established on date of adjudication of the bankruptcy.
- 2) The Bankruptcy trustee may, after consulting with the supervisor and subject to the approval of the bankruptcy judge, return the item to its owner. If the Bankruptcy trustee refuses to return the item, the dispute shall be raised to the Court.

Article 70

- 1) Goods in possession of the bankrupt by way of bailment or for sale for the account of or delivery to the owner thereof may be recovered, provided they are available in kind in the bankruptcy. Similarly, the price of the goods may be recovered, unless it has been paid in cash or by a negotiable instrument or set-off h a current account between the bankrupt and the purchaser.

- 2) The person who recovers an item shall pay to the Bankruptcy trustee any amount payable to the bankrupt.
- 3) Where the bankrupt has deposited the goods with a third party, they may be recovered from such third party.
- 4) Where the bankrupt borrows against a mortgage on the goods mentioned in the first paragraph with the knowledge of the creditor that the bankrupt does not own the goods, such goods may not be recoverable until the repayment of the debt secured by the mortgage.

Article 71

- 1) Commercial papers and other valuable papers delivered to the bankrupt for collection of the principle, interest or dividends, property thereof or for utilisation in the satisfaction of a certain liability are recoverable if they are still available in kind in the bankruptcy provided their value had not been paid at the time of adjudication of bankruptcy.
- 2) However, recovery is may not be effected if the said instruments have been entered in a current account for recovery between the applicant and the bankrupt.

Article 72

Currency notes deposited with the bankrupt may not be recovered unless the person claiming recovery establishes these particular notes 0 belong to him.

Article 73

- 1) If a contract of sale is rescinded by a judgement or by the operation of a condition in the contract, prior to the adjudication of the bankruptcy

of the purchaser, the seller may recover all or part of the goods from the bankruptcy provided they are still available in kind.

- 2) Recovery may be effected despite the occurrence of rescission takes place after the adjudication of the bankruptcy of the purchaser, provided the action for the recovery or for the recession is commenced prior to the bankruptcy adjudication.

Article 74

- 1) If the buyer is adjudicated bankrupt before payment of the P while the goods are in the possession of the seller, the buyer may withhold the goods.
- 2) Where the buyer is adjudged bankrupt, receipt of the goods into his stores or those of his sales agent, the seller may withhold the said goods or regain possession thereof. However, recovery may not be effected if the nature of the goods is changed or if the bankrupt has infraudulently disposed of them before their arrival, by virtue of the ownership documents or shipping documents to a bona fide buyer.
- 3) In all cases, the bankruptcy trustee may after obtaining the permission of the bankruptcy judge require delivery of the goods, provided that he shall pay to the seller the agreed price. If delivery is not claimed by the Bankruptcy trustee, the seller may invoke his right to rescind the contract, claim damages as well and participate in the bankruptcy.

Article 75

- 1) Where the buyer is adjudged bankrupt before payment of the price but after receipt of the goods in his stores or the stores of the sales agent, the seller may not claim recession of the contract of sale nor recovery of the goods and shall also forfeit his right of priority.

- 2) A condition which may enable the seller to recover or maintain his priority over the goods shall not be pleaded towards the group of creditors.

Section 7

Rights of the bankrupt's spouse

Article 76

- 1) Neither spouse may claim against the group of creditors of the other spouse's bankruptcy for the performance of donations made by the spouse during marriage contract in his life or added after death.
- 2) Further, the group of creditors may not claim from either spouse donations made by one spouse to the other during theft marriage.

Article 77

Either spouse may, regardless of the matrimonial financial arrangements, recover from the other spouse's bankruptcy his/her movables and real property if title thereto is established in accordance with the general principles.

Article 78

- 1) Property purchased by or for the account of the bankrupt spouse or for the account of minors under the guardianship of the bankrupt from the date of engaging in business shall be deemed to have been purchased with the bankrupt person's monies, and thus enter into the assets of the bankruptcy, save where otherwise proved.
- 2) Save where otherwise established, the debts of a bankrupt's spouse which are discharged by the other spouse shall be deemed to have been discharged with the monies of the bankrupt's spouse.

CHAPTER 4
MANAGEMENT OF THE BANKRUPTCY

Section 1

Administration of the Bankrupt Assets

Article 79

- 1) Seals shall be placed on the bankrupt's place of business, his offices, warehouses, records, documents and movable properties.
- 2) The bankruptcy judge shall, immediately after his appointment, place seals or he may appoint a court official to perform such act.
- 3) If it is established that the bankruptcy judge may carry out the inventory taking of the bankrupt's assets in one day, he may proceed immediately to take the inventory without any need for placing the seals.
- 4) A report on placing of the seals shall be prepared, signed by the person conducting the inventory taking and immediately delivered to the bankruptcy judge.

Article 80

Seals may not be placed on the bankrupt's clothes and other necessities of the bankrupt and his dependents, and all these items shall be ascertained by the bankruptcy judge and delivered to the bankrupt by a list signed by the judge.

Article 81

- 1) The bankruptcy judge may, of his own motion or at the request of the bankruptcy trustee, order preventing the placing of seals or the lifting thereof from the following items:
 - a) Commercial books.

- b) Commercial papers and other instruments which are payable within a short period of time or which require certain procedures for the protection of the rights arising therefrom.
 - c) Amount of money required for spending on urgent matters relating to the bankruptcy.
 - d) Perishable items or items whose value diminishes rapidly or the maintenance of which incurs heavy costs.
 - e) Items needed for the conduct of the operating the place of business, if it is decided to continue its operations.
- 2) An inventory for the items mentioned in the preceding paragraph shall be taken in the presence of the bankruptcy judge or the person delegated by him and the inventory list shall be delivered to the Bankruptcy trustee who shall sign the list.
 - 3) Commercial books may not be delivered until they are closed by the bankruptcy judge.

Article 82

- 1) The bankruptcy judge shall, at the request of the Bankruptcy trustee, order the lifting of the seals for conducting the inventory taking of the bankrupts assets.
- 2) The lifting of the seals and the conduct of inventory taking shall commence within five days from the date of adjudication of bankruptcy.

Article 83

- 1) The bankrupt shall be notified of the date of inventory taking by a registered letter with an acknowledgement slip. In case of urgency, the bankruptcy judge may approve notification of the bankrupt person in any other manner as he deems fit.

- 2) Inventory taking shall be conducted in the presence of the bankruptcy judge or the person appointed for this purpose, the bankruptcy trustee and the Court clerk. The bankrupt may also attend.
- 3) An inventory list shall be prepared in duplicate and both copies shall be signed by the bankruptcy judge and the Court clerk. One copy shall be deposited with the Court Clerks and the other copy shall be kept by the bankruptcy trustee.
- 4) The list shall include properties on which no seals are placed or those from which seals were lifted.
- 5) A valuer may assist in the conduct of inventory taking and the valuation of properties.

Article 84

If bankruptcy is declared subsequent to the death of the merchant and no inventory list is prepared on the occasion of death, or where the merchant dies after being adjudicated bankrupt but before commencement of the preparation or completion of the inventory list, the inventory list shall be prepared or its preparation continued forthwith in the manner set forth in the preceding Article in the presence of the bankrupt's heirs or subsequent to summoning them.

Article 85

The Bankruptcy trustee shall, subsequent to inventory taking receive the bankrupt's properties, books, documents and papers and shall sign the inventory list acknowledging such receipt.

Article 86

- 1) The Bankruptcy trustee shall call the bankrupt to be present when the books are closed. If the latter fails to attend, the Bankruptcy trustee

shall give him notice by a registered letter with an acknowledgement slip requiring to be present not later than 48 hours failing which the books will be closed in his absence.

- 2) The bankrupt may not delegate any other person to attend on his behalf except for reasons acceptable to the bankruptcy judge.

Article 87

If a balance sheet is not produced by the bankrupt, the Bankruptcy trustee shall prepare one immediately or shall assign this task to a chartered accountant approved by the bankruptcy judge and such accountant shall deposit the balance with the Court Clerks.

Article 88

The Bankruptcy trustee shall receive any letters coming in the name of the bankrupt and relating to his business. The Bankruptcy trustee may open and keep such letters and the bankrupt may read them.

Article 89

- 1) The Bankruptcy trustee shall perform all acts required to preserve the rights of the bankrupt towards third parties and shall claim such rights and recover them.
- 2) He shall record the bankrupt's rights on the real properties belonging to his debtors, unless the bankrupt has already done so.

Article 90

- 1) The assets of the bankrupt may not be sold during the period of the preliminary proceedings. However, the bankruptcy judge may, at the request of the Bankruptcy trustee, grant leave for the sale of such perishable items, items which may diminish in value or items the

maintenance of which incurs heavy costs. Leave may also be granted for the sale of the bankruptcy assets if such sale is needed to obtain monies for spending on its affairs or where the sale realises a confirmed benefit for the bankruptcy or the bankrupt person.

- 2) Movable properties shall be sold in the manner prescribed by the bankruptcy judge, but the sale of real property shall be effected in accordance with the provisions of the Civil and Commercial Procedures Act, as amended, applicable to the sale of attached real property.
- 3) The verdict adopted by the bankruptcy judge for the sale of the bankrupt's assets may be appealed against before the Court.

Article 91

- 1) The bankruptcy judge may, after consultation with the supervisor, hearing the bankrupt and notifying him by a registered letter with an acknowledgement slip, permit the Bankruptcy trustee to enter into reconciliation proceedings or accept arbitration with respect to every dispute relating to the bankruptcy even though it relates to rights or claims associated with real property.
- 2) If the value of the dispute is unascertained or if the amount thereof is in excess of BD 3,000, the reconciliation or acceptance of arbitration shall not be valid unless its terms are approved by the bankruptcy judge. The bankrupt shall be summoned to attend the approval and the bankruptcy judge shall hear his statement if he attends, but he shall be entitled to object.
- 3) The Bankruptcy trustee shall not waive any right of the bankrupt nor shall he admit any third party rights except in accordance with the conditions stipulated by the first paragraph.

- 4) The decision of the bankruptcy judge may be appealed against if refuses to approve the reconciliation or arbitration.

Article 92

- 1) The bankruptcy judge may, at the request of the Bankruptcy trustee or the bankrupt and after consultation with the supervisor, grant leave to continue the operation of the place of business if this is required for public interest or for the interest of the debtor or creditors.
- 2) The bankruptcy judge shall, at a proposal from the bankruptcy trustee, appoint and determine the fees of the person who undertakes the management of the place of business. The bankrupt himself may be appointed to manager and the fee received by him shall be deemed to be included in the financial support to which the bankrupt and his dependents are entitled. It shall be completely forbidden to combine between the fee and the said financial assistance.
- 3) The Bankruptcy trustee shall supervise whoever is appointed to manage the place of business and shall present a monthly report to the bankruptcy judge on the conduct of business.
- 4) The bankrupt and the Bankruptcy trustee shall have the right to appeal against the decision regarding the continuation of the operation of the place of business.

Article 93

In case of the bankrupt's death, his heirs shall succeed him in the bankruptcy proceedings. They shall be entitled to appoint a representative to act on their behalf, If they do not agree to the appointment of such representative, the bankruptcy judge may at the request of the bankruptcy trustee to make such appointment.

The judge may at any time remove the heirs' representative and to appoint another.

Article 94

- 1) Amounts collected by the Bankruptcy trustee for the account of the Bankruptcy shall be deposited in the Court Treasury or in a bank designated by the bankruptcy judge either on the date of collection or on the following day at the latest. The bankruptcy trustee shall pay the legal interest if the deposit is delayed.
- 2) The bankruptcy trustee shall submit to the bankruptcy judge an account of the said amounts within five days from the date of deposit.
- 3) The said or other amounts deposited by third parties for the bankruptcy's account may not be withdrawn except by an order of the bankruptcy judge.

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Article 95

- 1) The bankruptcy judge may, where necessary and after consultation with the supervisor, order distribution to the creditors whose debts have been established. The distribution shall be conducted according to a list prepared by the Bankruptcy trustee and approved by the bankruptcy judge for distribution.
- 2) The bankrupt and every interested party shall have the right to appeal against the decision of the bankruptcy judge on distributions to the creditors.

Article 96

- 1) The Bankruptcy trustee shall submit to the bankruptcy judge, within thirty days from the date of his appointment, a report stating the reasons that lead to, and the apparent state and circumstances of the

bankruptcy. The bankruptcy judge may fix another date for the submission of the the aforesaid report.

- 2) The bankruptcy judge shall refer the report along with his comments to the Prosecutor General and a copy thereof shall be sent to the bankrupt.
- 3) The Bankruptcy trustee shall submit reports on the bankruptcy state on regular dates determined by the bankruptcy judge.

Section 2

Establishment of Debts

Article 97

- 1) Within one month from the date of passing the bankruptcy judgement, all creditors, including those whose debts are secured by specific securities, shall deliver to the Bankruptcy trustee the documents of their debts with a statement showing the debts and theft securities if any as well as the amount thereof denominated in local currency at the exchange rate prevailing on the date of passing the bankruptcy adjudication judgement. The statement shall be signed by the creditor or his agent. The Bankruptcy trustee shall issue a receipt acknowledging receipt of the statement and the debt's documents.
- 2) The statement and the relevant documents may be sent to the Bankruptcy trustee by a registered letter with an acknowledgement slip.
- 3) Subsequent to the closure of the bankruptcy, the Bankruptcy trustee shall return the documents to the creditors and shall remain responsible therefore for one year from the date of termination of the bankruptcy.

Article 98

- 1) If the creditors whose names are recorded in the balance sheet fail to produce their documents within the ten days following the publication of the judgement adjudicating bankruptcy in the newspapers, the Bankruptcy trustee shall publish an advertisement in the Official Gazette inviting creditors to produce their documents accompanied by the statement referred to in the preceding Article.
- 2) The creditors shall submit the documents of their debts accompanied by the statement within ten days from the date of publication in the newspapers. The prescribed period shall be one month with for the creditors residing outside the State of Bahrain.

Article 99

- 1) The Bankruptcy trustee shall, with the assistance of the supervisor, verify the debts in the presence of the bankrupt or summoning to attend by a registered letter accompanied by an acknowledgment slip.
- 2) If the Bankruptcy trustee, the supervisor or the bankrupt disputes any debt, the Bankruptcy trustee shall notify the creditor accordingly by a registered letter with an acknowledgement slip. The creditor shall have the right to send written or oral clarifications within ten days from the date of receiving such notice.
- 3) Debts owed to the Government because of any type of tax, shall not be subject to the verification procedures.

Article 100

- 1) The Bankruptcy trustee shall, upon the completion of verification of debts, deposit a report including the statement of documents, grounds for disputing them and his recommendations with regard to the admission or rejection thereof. He shall also deposit a list of the creditors who claim to have specific securities over the bankrupt's

properties showing the amount of their debts, the type of securities thereof and the properties involved.

- 2) This deposit shall be made not later than sixty days from the date of passing of the bankruptcy judgement. If necessary such time limit may be extended by a decision of the bankruptcy judge.
- 3) The Bankruptcy trustee shall, within five days from the date of the deposit send to the bankrupt and the creditors a copy of the aforesaid list and statement showing details of the amounts he deems admissible from the debt of each creditor. Further, the Bankruptcy trustee shall within this period publish the deposit of the list in a local newspaper. Any interested party may peruse to the list and the statement in Court.

Article 101

The bankrupt and every creditor whose name is included in the list of debts, may within fifteen days from the date of publishing the deposit of the list in the newspaper dispute the debts included in the list. The statement of claim shall be delivered to the Court Clerks and may also be sent by a registered letter with an acknowledgement slip or by a telegram.

Article 102

- 1) The bankruptcy judge shall, after the lapse of the fifteen days prescribed in the preceding Article, prepare a final list of the undisputed debts; and the Bankruptcy trustee shall indicate his acceptance thereof and the amount admitted of each debt on the statement accompanying the documents of the these debts.
- 2) The bankruptcy judge may consider a debt disputed even where no dispute has been submitted.

- 3) The bankruptcy judge shall decide on disputed debts within thirty days from the date of expiry of the period fixed for submission of disputes.
- 4) The Court Clerks shall notify the persons concerned by a registered letter with an acknowledgement slip of the date of the hearing at least three days before such date. He shall also notify them of the decision made on the dispute as soon as it is passed.

Article 103

- 1) The decision passed by the bankruptcy judge admitting or rejecting the debt is appealable.
- 2) The appeal shall not have the effect of suspending the bankruptcy proceedings, unless this is decided by the Court.
- 3) Before deciding on the appeal, the Court may approve the admission of the debt provisionally by an amount which it shall determine.
- 4) The debt may not be admitted provisionally where criminal proceedings are undertaken with respect to such debt.
- 5) If the dispute relates to the debt's securities, the creditor shall be admitted provisionally as an unsecured creditor.
- 6) A creditor, whose debt has not been admitted either provisionally or finally, shall not participate in the bankruptcy proceedings.

Article 104

- 1) The creditors who failed to submit their applications within the prescribed period may not participate in the current distributions. However, they may participate in the dispute until the distribution of the monies has been completed. They shall be required to bear the dispute's expenses. Disputes shall not suspend the execution of distributions ordered by the bankruptcy judge, however, the said

creditors may participate in the new distributions in the amounts estimated provisionally by the Court and their shares shall be reserved for them until the dispute is resolved.

- 2) If their debts are subsequently they may not claim a share in the distributions ordered by the bankruptcy judge, but they may receive from the remaining undistributed amounts the shares of their debts to which they would have been entitled had they participated in the previous distributions.

Section 3

Closure of the bankruptcy for insufficiency of assets

Article 105

- 1) Where the bankruptcy business is suspended for insufficiency of assets before approval of the composition or the creation of the state of the union the Court may based on a report of the bankruptcy judge or of its own motion order the closure of the Bankruptcy.
- 2) An order closing the bankruptcy on grounds of insufficiency of assets entitles each creditor to take legal action and raise individual suits.
- 3) The bankruptcy trustee shall remain liable for the documents delivered to him by the creditors for one year from the date of the judgement of closure of the Bankruptcy.

Article 106

- 1) The bankrupt person, and interested party may, at any time, apply to the Court revoke the closure of bankruptcy, if he can establish the availability of sufficient funds to pay the expenses of the bankruptcy operations or if he delivers to the Bankruptcy trustee a sufficient amount to cover these expenses.

- 2) In all cases, the expenses of the proceedings that have taken place according to the preceding paragraph shall be paid in priority over other claims.

CHAPTER 5

TERMINATION OF BANKRUPTCY

Section 1

Termination of bankruptcy due to cessation of the interest of the body of creditors

Article 107

The Court may at any time after the final list of the debts referred to in Article 102 has been prepared upon the application of the bankrupt, pass a judgement terminating the bankruptcy, if it is established that the bankrupt has discharged all the debts submitted to the bankruptcy or that he has deposited with the Bankruptcy trustee the sufficient amounts to discharge the principal of the said debts, with interest and expenses.

Article 108

- 1) The Court may not enter judgement terminating the bankruptcy on grounds of cessation of the interest of the group of creditor's interest until it has reviewed the report of the bankruptcy judge where he establishes the realisation of either of the two conditions referred in the preceding Article.
- 2) As soon as the judgement is entered the bankruptcy shall be terminated and the bankrupt regains all his rights.

Section 2

Composition

Article 109

- 1) If a bankrupt applies for composition, the bankruptcy judge shall order the Court Clerks to call the creditors whose debts have been finally or provisionally admitted by registered letters accompanied by an acknowledgement slip to attend at the discussion of the composition.
- 2) A call shall be made where a dispute over the debts has not been raised within the seven days following the preparation of the final list of debts provided for in Article 102. Where a dispute has arisen, the call shall be made within the fifteen days following the expiry of the period prescribed for appeal against the last order made by the bankruptcy judge with regard to the admission or rejection of the debts.
- 3) The Bankruptcy trustee shall within the period prescribed by the preceding Paragraph publish the call to attend the discussion on the composition published in a local newspaper designated by the bankruptcy judge.

Article 110

- 1) The composition meeting shall be presided over by the bankruptcy judge at the place and time specified by him.
- 2) The creditors shall attend at the meeting personally or through their authorised representatives.
- 3) The bankrupt shall be summoned to the meeting by a registered letter with an acknowledgement slip. He may not authorise another person to attend on his behalf except for serious reasons acceptable to the bankruptcy judge.

Article 111

- 1) The bankruptcy trustee shall submit a report to the composition meeting explaining the state of the bankruptcy of and the proceedings performed, the recommendation of the bankrupt for the composition and the opinion of the bankruptcy trustee on these recommendation.
- 2) The statement of the bankrupt shall be heard.
- 3) The judge shall prepare written minutes of the business conducted during the meeting.

Article 112

A composition may only be reached with the consent of the majority of creditors whose debts have been finally or provisionally admitted, provided they hold two thirds of such debts. The debts of the creditors who do not take part in voting shall not be subtracted in calculating these two majorities.

Article 113

- 1) The bankrupt's spouse, relatives or in-laws to the fourth degree may not participate in the discussions nor vote on the terms of the composition.
- 2) Where, after the adjudication of bankruptcy, any of the creditors mentioned in the preceding paragraph assigns his debts to a third party, the assignee may not participate in the discussions nor vote on the composition.

Article 114

- 1) Creditors holding securities in kind over the bankrupt's properties shall not participate in nor vote on the composition with regard to their debts secured as aforesaid unless they forfeit the said securities beforehand.

Forfeiture may be limited to part of the security provided that such part is not less than the equivalent of one third of the debt. The forfeiture shall be entered in the minutes of the meeting.

- 2) Where any of the creditors mentioned in the preceding Article participates in the voting on the composition without declaring forfeiture of all or part of his security, he shall be deemed to have forfeited his entire security.
- 3) In all cases, forfeiture of the security shall not be considered final unless the composition is decided and approved by the Court.
- 4) Where the composition is annulled the security covered by the forfeiture shall be reinstated.

Article 115

- 1) The minutes of the composition shall be signed at the meeting where voting on the composition took place, otherwise it shall be null and void.
- 2) Where neither of the two majorities stipulated in Article 112 is attained, the discussions shall be adjourned for ten days and no further adjournment shall be allowed.
- 3) Creditors who attended at or were validly represented in and signed the minutes of the first meeting may not attend the second meeting, in which case the resolutions and approvals passed in the first meeting shall continue to be valid in the second meeting, save where they amend the same in the second meeting or where the bankrupt had, in the intervening period of the two meetings, amended his proposals regarding the composition.

Article 116

A composition may not be reached with the bankrupt who has been convicted of fraudulent bankruptcy. If investigations have been commenced with the bankrupt on to the offence of fraudulent bankruptcy, the discussion of composition shall be adjourned.

Article 117

- 1) Imposing punishment against the bankrupt for committing the offence of negligent bankruptcy shall not prevent composition with him.
- 2) Where investigations in the offence of negligent bankruptcy is commenced with the bankrupt person, the creditors may discuss composition or postpone such discussion.

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Article 118

- 1) A composition may include a term allowing the debtor a period to pay and may also provide for discharging him of liability for part of the debt. The debtor shall remain liable for part of the debt covered by the discharge, as an unsecured debt.
- 2) A composition may be agreed including a condition fee payment if the debtor becomes solvent within a period fixed in the contract of composition, provided that such period shall not exceed five years from the date of approval of the composition. The debtor is not deemed to have become solvent save when the value of his assets exceeds the value of the debts due from him by at least twenty five per cent.
- 3) The creditors may require providing one or more guarantors to secure the performance of the terms of the composition.

Article 119

- 1) Parties participation in the composition discussion are entitled to raise objections.
- 2) The objection shall be supported by reasoning, otherwise it shall be deemed null and void. Such objection shall be notified to the bankrupt and the Bankruptcy trustee. They shall be summoned to appear before the Court to decide on the objection. Any objection shall be raised within 10 days from the date of signing the minutes of the composition discussion.

Article 120

- 1) An objection in a composition shall be submitted to the Court which adjudicated bankruptcy.
- 2) If the decision on the objection is dependant upon deciding on Y-N a litigation outside the jurisdiction of the bankruptcy court, the objection shall be adjourned pending a decision on said litigation. The Court shall fix for the objecting party a close date for submitting the litigation to the competent court and the objecting party shall produce evidence of having taken such action.
- 3) If the objection to the composition is rejected, the Court may order the objecting party to pay a fine not less than BD 20 and not exceeding BD 100, if it is established that he has deliberately delayed the composition by his objection.

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Article 121

- 1) The composition shall be submitted to the Court for approval.
- 2) Every party to the composition shall be entitled to apply for the approval thereof.
- 3) The Court may not decide on the application for approval of the composition before the expiry of the period fixed by Article 109.

- 4) If the objection is submitted within the aforesaid period, the Court shall decide on it and on the application for approval in one judgement.
- 5) A judgement rejecting the composition shall apply to all the parties concerned.
- 6) In all cases, the Court shall not decide on the application for approval of the composition save after reviewing the report of the bankruptcy judge about the state of the bankruptcy and his opinion as to the approval or rejection of the composition.

Article 122

Approval of a composition must be rejected if the provisions of the preceding Articles are not complied with or for public interest purposes or for the interests of creditors justifying the rejection of the composition.

Article 123

On approving a composition, the Court shall appoint one or more supervisor to monitor performance of its conditions.

Article 124

- 1) The judgement approving the composition shall be published in accordance with the provisions of Article 10.
- 2) The summary published in the newspapers shall include the name of the debtor, his domicile, commercial registration number, the Court that has approved the composition, the date of the approval judgement and a summary of its major terms.
- 3) The Bankruptcy trustee shall, within fifteen days from the date of passing the final judgement approving the composition, cause the summary thereof to be entered in the Land Registration Directorate in

the name of the composition supervisor, in his capacity as a representative of the creditors. Registration shall create a mortgage over the said immovable properties to secure the rights of creditors who are subject to the composition terms, unless the composition agreement otherwise provides. The supervisor shall release the mortgage when the composition conditions are carried out.

- 4) Further, the Bankruptcy trustee shall, within the period prescribed by the preceding Paragraph, ensure the registration of a summary of the composition approval judgement in the Commercial Registry in the name of the supervisor, in his capacity as a representative of the creditors. Such registration shall create a mortgage over the place of business to secure the rights of creditors who are subject to the composition, unless the composition agreement otherwise provides. Once the terms of the composition have been implemented, the supervisor shall cross off the mortgage.

Article 125

Approval of the composition shall render it enforceable towards all creditors comprising the group of creditors.

Article 126

- 1) With the exception of deprivation of political rights, passing of the final judgement approving composition shall wipe out all effects of the bankruptcy.
- 2) The Bankruptcy trustee shall submit to the bankrupt a final account which shall be discussed in the presence of the bankruptcy judge.
- 3) The duties of the Bankruptcy trustee shall cease and the bankrupt shall receive from him all properties, books and documents belonging to the bankrupt against a receipt. If the bankrupt fails to take delivery of

these items within two years from the date of approving the final account the bankruptcy trustee shall not be responsible for them.

- 4) The bankruptcy judge shall prepare minutes of all these proceedings, and in the event of a dispute it shall be referred by the judge to the Court for settlement.

Article 127

- 1) Composition shall be annulled if subsequent to its approval the bankrupt is convicted of any one of the offences of fraudulent bankruptcy.
- 2) Composition shall also be annulled if its approval after fraud is discovered by concealing properties of the bankrupt or overstatement of his debts, in which case an application for annulment of the composition shall be submitted within six months from the date on which the fraud is discovered, otherwise the application shall be accepted. In all cases, the application for the annulment of the composition shall not be accepted if submitted after two years from the date of issue of the decision approving the composition.
- 3) The annulment of the composition shall have the effect discharging the guarantor who guarantees the performance of 4Th terms of composition from liability.

Article 128

If, subsequent to the approval of the composition, an investigation is commenced with or a criminal case is raised against the bankrupt for the offence of fraudulent bankruptcy, the President of the Court which approved the composition may, upon application being made by the Public Prosecution or by any interested party, order that measures be taken for the preservation of the properties of the debtor. Such measures

shall be cancelled by operation of the law if it is decided that there are no grounds for bringing of a criminal case or where the bankrupt is acquitted.

Article 129

- 1) An application for the annulment of the composition may be Q submitted to the Court which has the competence or approve it if the bankrupt fails to perform the terms of the composition.
- 2) Recession of the composition shall not discharge the guarantor who guarantees the performance of its terms from it liability. The guarantor shall be summoned to attend the Court session fixed for consideration of the application for annulment of the composition.

Article 130

- 1) The Court shall appoint, in the judgement annulling or rescinding the composition, a Bankruptcy trustee and a bankruptcy judge and may order the placing of the seals on the assets of the bankrupt.
- 2) The Bankruptcy trustee shall within seven days from the date of the judgement annulling or rescinding the composition publish a summary of the judgement in a local newspaper specified by the bankruptcy judge.
- 3) The Bankruptcy trustee shall in the presence of the bankruptcy judge or the person appointed by him carry out an additional inventory taking of the bankrupt's properties and prepare an additional balance sheet.
- 4) The Bankruptcy trustee shall require the new creditors to produce the documents establishing their debts in accordance with the procedures regulating establishment of debts.

Article 131

The new debts shall be verified immediately without the need to verify once already accepted need not be re-investigated. However, debts which have been fully paid shall be excluded and debts which are partially paid shall be reduced.

Article 132

- 1) Disposals by the debtor after the passing of the judgement approving the composition but before annulment or rescission shall be valid against the creditors who shall not be entitled to plead its non-enforceability against them except on the basis of the provisions relating to the claim of non-enforceability of the debtors acts.
- 2) The claim of non-enforceability of acts provided for in the preceding paragraph shall only be heard after the lapse of two years from the date of annulment or rescission of the composition.

Article 133

- 1) Subsequent annulment or rescission of the composition creditors shall be entitled to the entire debts exclusively against the bankrupt.
- 2) These creditors shall join the group of creditors for the entire original debts, if they had not received any part from the amount allotted to them in the composition; otherwise their debts shall be proportionately reduced the amount received by them.
- 3) The provisions of the preceding two paragraphs shall apply the case of adjudgement of bankruptcy prior to the completion of performance of the composition terms.

Section 3

Composition with forfeiture of properties

Article 134

- 1) A composition may be concluded where the debtor is required to forfeit all or some of his assets.
- 2) The provisions of legal settlement shall apply to the terms, effects, annulment and recession of such composition.
- 3) The properties forfeited by the debtor shall be sold in accordance with the provisions applicable to the sale by the bankrupt in the case creditors' union.

Article 135

If the proceeds of sale of the assets forfeited by the debtor exceed the amount of debts due from him, the surplus shall be refunded to him.

Section 4

Creditors' Union

Article 136

Creditors are deemed to be in a state of union by the operation of the law in the following situations:

- A) If the debtor refrains from applying for composition.
- B) If the debtor applies for composition but application is rejected by the creditors.
- C) If the debtor obtains composition which is later annulled or rescinded.

Article 137

- 1) The bankruptcy judge shall, subsequent to the creation of the state of union, summon the creditors to discuss the affairs of the bankruptcy. The creditors holding securities in kind over the bankrupt's

properties may participate in the discussion and may vote without losing their securities.

- 2) If the majority of the creditors present decide to change the Bankruptcy trustee, the bankruptcy judge shall immediately replace him with another. The new trustee shall be called the Union of Creditors trustee.
- 3) The replaced trustee shall submit to the Union of Creditors trustee, within the period specified by and in the presence of the Bankruptcy judge, an account of his management. The debtor shall also be notified of the date of the submission of the account.

Article 138

- 1) The opinion of the creditor shall be taken into consideration, at the meeting provided for in the preceding Article, in determining the financial assistance to the bankrupt or his dependents.
- 2) if the majority of creditors present approve payment of a financial assistance to the bankrupt or his dependants, the bankruptcy judge shall after consultation with the Union of Creditors trustee and the supervisor determine the amount of the financial assistance.
- 3) The Union of Creditors trustee may appeal against the decision of the bankruptcy judge with respect to the determination of the amount of financial assistance. In this case, one half of the amount of the assistance shall be paid to the persons entitled pending decision on the appeal.

Article 139

- 1) The Union of Creditors trustee may not subsequent to the establishment of the state of the Union continue the debtor's trade, even if he was previously authorised to do so, unless he obtains a

special authority granted by a majority representing three quarters of the number of and amounts owed to the creditors. The authorisation shall fix the period of such authority, the powers of trustee and the amounts he should keep for operating the business.

- 2) The authority to continue with the operation of the business shall not be practised before obtaining the approval of the bankruptcy judge.
- 3) If liabilities exceeding the value of the properties of the Union result from the continuation of the business activity, the creditors who approved the continuation of the trade shall be severally liable in their own properties for the surplus, provided it is incurred as a result of transactions within the limits of the authority granted by them, and each creditor's liability shall be proportionate to the amount of his debt.

Article 140

- 1) The Union of Creditors trustee may sell the bankrupt's movable properties, place of business and recover his rights without need for consultation with or obtaining the permission from the bankruptcy judge. The bankruptcy judge may determine the manner whereby the Union of Creditors trustee may sell the bankrupt's movable properties and place of business.
- 2) Immovable properties, place of business shall be sold by the bankruptcy judge in accordance with the provisions of the Civil and Commercial Procedure Act, as amended, regarding the sale of attached properties.
- 3) If the execution against the debtor's immovable properties is not carried out prior to the creation of the state of the Union, the Union of Creditors trustee shall have the exclusive right to execute against them within the ten days following the creation of the state of the Union

unless the bankruptcy judge orders the postponement of the enforcement.

- 4) The Union of Creditors trustee may not sell the assets of the (3) bankruptcy in one lot against a total amount without the permission of the bankruptcy judge.
- 5) Every interested party may appeal against the decision of the bankruptcy judge concerning the determination of the manner of selling the bankrupt's properties or the permission to sell them in one lot against a total amount. Such appeal shall have the effect of suspending the execution of the order.

Article 141

- 1) The Union of Creditors trustee shall, on the day following collection, deposit the proceeds of sale of the bankrupt's properties in the Court Treasury or a bank designated by the bankruptcy judge.
- 2) The Union of Creditors trustee shall submit to the bankruptcy judge a monthly statement about the state of the liquidation and the amounts deposited.
- 3) Such amounts shall not be withdrawn except by the order of the bankruptcy judge.

Article 142

- 1) The fees, expenses of administering the bankruptcy, the financial assistance determined for the bankrupt and his dependents and the amounts due to the creditors having priority rights shall be deducted from the proceeds of sale of the bankrupt's assets. The balance shall be distributed to the creditors in proportion to the respective established debts.

- 2) The value of disputed debts shall be set aside until admitted by a final judgement.

Article 143

The bankruptcy judge shall order distributions to be made to the creditors and shall determine the amount to be distributed. The Union of Creditors trustee shall notify the creditors accordingly by registered letters accompanied by acknowledgement slips. The bankruptcy judge shall, if necessary, order the publication of the order for distribution in one local newspaper which he shall specify.

Article 144

- 1) The Union of Creditors trustee may not pay a share of a creditor in the distribution unless such creditor produces the debt instrument duly marked as having been proved and admitted, and he shall indicate on the debt instrument and the amounts paid.
- 2) Where a creditor is unable to produce the debt instrument, the bankruptcy judge shall grant permission for payment of his debt after verification,
- 3) In all cases, the creditor shall acknowledge discharge of the liability on the distribution list.

Article 145

Where the liquidation is not completed after the lapse of six* months from the date of the establishment of the state of Union of Creditors, the trustee shall submit a report to the bankruptcy judge on the state of the liquidation and the reasons for the delay.

The judge shall send this report to the creditors and shall call them to attend a meeting for discussion. Such action shall be repeated each time a

period of six months lapse without the completion of the liquidation proceedings by the trustee.

Article 146

- 1) On terminating the liquidation activities, the Union of Creditors trustee shall submit a final account to the bankruptcy judge, and the judge shall forthwith send such account to the creditors along with a summon to attend a meeting for the discussion thereof. The bankrupt shall be called by a registered letter with an acknowledgement slip to attend this meeting.
- 2) The Union of Creditors shall be wound up and the bankruptcy shall be deemed to have been terminated by operation of the law after the approval of the account.
- 3) The Union of Creditors trustee shall be responsible, for a period of one year from the date of terminating the bankruptcy, for the books, documents and papers delivered to him by the debtor or concerning him.

Article 147

- 1) After the termination of the state of the Union, every creditor shall have recourse to enforce against the debtor to recover the remaining balance of his debt.
- 2) The admission of the debt in the bankruptcy shall be deemed as a final judgement with respect to enforcement.

CHAPTER 6

SMALL BANKRUPTCIES

Article 148

If, after conducting the inventory taking of the bankrupt's properties, it is established that its value does not exceed BD 5,000, the bankruptcy judge may of his own motion or at the request of the Bankruptcy trustee or one of the creditors order that the bankruptcy proceedings be conducted in accordance with the following provisions:

- A) The statutory periods provided for in Article 98, Article 99(2), Article 100(2) Article 101(2), Article 102(3) and Article 115 (2) shall be reduced to one half of the period prescribed. If the period provided for in any of these Article is fifteen days, it shall be reduced to eight days.
- B) All rulings and decisions of the bankruptcy judge shall be unappealable.
- C) A bankruptcy supervisor shall not be appointed.
- D) No financial assistance shall be fixed for the bankrupt or his dependents.
- E) In case of disputing the debts, the creditors shall be called to discuss composition within five days from the date of resolving the dispute by the bankruptcy judge.
- F) A proposed composition shall be acceptable if approved by the majority of creditors who are entitled to vote both in number and value.
- G) Objection composition may not be accepted and the bankruptcy judge shall be competent to approve the composition.
- H) There shall be only one distribution of the assets after completion of the sale of the properties of the bankrupt.

CHAPTER 7

BANKRUPTCY OF COMPANIES

Article 149

The bankruptcy of companies shall be subject to the bankruptcy provisions in general and this rule shall be subject to the provision of Chapter 15 of the Bahrain Monetary Agency Law issued by the Legislative Decree No. 13/1973 In all cases, if the Bahrain Monetary Agency conducts any of the liquidation procedures provided for in the said Chapter, any bankruptcy proceedings shall cease and must be suspended if they have already been commenced pending the final resolution of the liquidation.

Article 150

Subject to the preceding Article 149, the provisions of the following Articles shall apply to the bankruptcy of companies.

Article 151

- 1) With the exception of unregistered partnerships a company, may be adjudged bankrupt, if its business becomes disorganised and it suspends payment of its commercial debts.
- 2) A de facto company and a company in liquidation may be adjudged bankrupt.

Article 152

- 1) The manager or liquidator of a company may not apply for the adjudication of bankruptcy except after obtaining a permission from the majority of partners in simple partnerships and simple commandite partnerships or from the Ordinary or Extraordinary General Meeting in the case of other companies.
- 2) The report referred to in Article 3 shall be submitted to the Clerks of the competent Court.

- 3) The report shall contain the names of the present jointly liable partners and those who have retired from the company after suspension of payment, domicile, nationality and date of advertising retirement of each partner in the Commercial Registry.

Article 153

- 1) A creditor of the company may apply for the adjudication of its bankruptcy even though he is a partner therein.
- 2) A partner who is not a creditor may not apply for the adjudication of the company's bankruptcy.
- 3) If the creditor applies for adjudicating the company's bankruptcy, the Statement of Claim shall be sent to the jointly liable partners referred to in the third paragraph of the preceding Article.

Article 154

The Court may, of its own motion or at the request of the company, postpone the adjudication of bankruptcy for a period of six months if extension of financial support to the company is probable or for the interests of national economy. In such case, the Court shall take whatever measures it deems fit for preserving the assets of the company.

Article 155

- 1) If a company is adjudicated bankrupt, all the jointly liable partners therein shall be adjudicated bankrupt. The adjudication of bankruptcy shall apply the jointly liable partner who has retired from the company subsequent to cessation of payments, where the petition to adjudicate of the company's bankruptcy is submitted before the lapse of one year from the date of entering the retirement of such partner in the Commercial Register.

- 2) The Court shall adjudicate the bankruptcy of the partnership and of its jointly liable partners in the same judgement.
- 3) One bankruptcy judge shall be appointed for the partnership bankruptcy and that of the jointly liable partners. However, despite this fact, each bankruptcy shall be independent of the others with respect to its assets, liabilities, administration, establishment of its debts and the mode of termination.

Article 156

- 1) Where a petition of bankruptcy of a company is submitted, the Court may adjudicate the bankruptcy of any person who conduct business operations for his own account by using the company name and disposing of the company's properties as his own.
- 2) The Court may, of its own motion, upon the request of the bankruptcy judge, the Public Prosecution, Bankruptcy trustee or one of the creditors, order that the company's directors or managers who had committed gross acts of default resulting in the disruption of or suspension of payment by the company be deprived of the rights provided for in Article 33.
- 3) Where it is established that the company's assets are not sufficient to satisfy at least twenty per cent of its debts, the Court may, at the request by the bankruptcy trustee, order the company directors, managers or some of them to pay jointly or severally all or some of the debts of the company, unless they are able to establish they have in their management of the company exercised the due diligence exercised by the reasonable man.

Article 157

The agent of a bankrupt company shall represent the company in all matters where the law requires that the bankrupt be consulted or be present. The agent shall appear before the bankruptcy judge or trustee whenever he is summoned and shall provide all information or clarification required of him.

Article 158

The Bankruptcy trustee may, after obtaining leave from bankruptcy judge, call on the partners to pay the uncalled part of their shares even if it is not yet due. However, the bankruptcy judge may restrict such call to the payment of an amount which would be sufficient to discharge the company's debts.

Article 159

Debentures issued by the company shall not be subject to debt verification procedures. Such debentures shall be admitted in the bankruptcy in their par value, after deduction of any amounts paid by the company on from their value.

Article 160

- 1) Composition proposals shall be prepared with the approval of the majority of partners in registered partnerships and simple commandite companies and with the approval of the ordinary general meeting in other types of companies.
- 2) The agent of a company shall submit the composition proposals at the meeting of the group of creditors.

Article 161

- 1) If the company's bankruptcy is terminated and a composition is concluded with one or more jointly liable partners, the company's property may not be used to pay the performance thereof.
- 2) if a composition is concluded with the company and the bankruptcies of the jointly liable partners were resolved by union, the company may continue to exist. However, composition shall not apply to the bankruptcies of the partners it is made on the basis of forfeiture of the company's property.
- 3) Where the bankruptcy of the company as well as the bankruptcies of the partners are resolved by composition, each composition is deemed to be separate from the others and its terms shall only apply to the creditors of the bankruptcy involved in to such composition.

Article 162

A company shall not be dissolved upon the termination of its bankruptcy by establishment of union. However, the bankruptcy judge may decide to dissolve the company if it is established that its remaining assets after the termination of the union are not sufficient to continue its business.

CHAPTER 8

DISCHARGE OF BANKRUPT

Article 163

Except for the case of fraudulent bankruptcy, all the rights of which the bankrupt has been deprived by Article 33 shall be restored upon the lapse of two years from the date of termination of the bankruptcy.

Article 164

- 1) A bankrupt shall be reinstated even though the period prescribed by the preceding Article has not expired if he repays all his debts

including the principal, expenses and interest of no more than one year.

- 2) If the bankrupt person is a joint partner in a partnership that has been adjudicated bankrupt, he shall be reinstated if he pays his proportion of the debts of the partnership including the principal, expenses and interest of no more than one year.
- 3) If one of the creditors refuses to take receipt of the debt owed to him, if he is absent or if it has proved impossible to know his domicile, the debtor may resort to the procedures governing payment by way of offer and deposit provided for in the provisions of the Civil and Commercial Procedures Act, as amended.

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Article 165

A bankrupt may be discharged even though the period prescribed by Article 163 has not expired in the following two events:

- 1) If he obtains a composition with his creditors and performed the terms thereof. This provisions shall be applicable to the join partner in a partnership that has been adjudicated bankrupt if the said partner obtains a separate composition and performs the terms thereof.
- 2) If the bahkruprt proves that the creditors have fully discharged him of all debts owed by him after the termination of the bankruptcy.

Article 166

A banlcruprt who has been convicted of an offence of negligent bankruptcy shall be reinstated after execution of the penalty inficted against him or upon the lapse of its term in which execution is stayed by the judgement.

Article 167

A bankrupt who has been convicted for an offence of fraudulent bankruptcy may be reinstated upon the lapse of three years from the date of execution of the sentence, pardon or the extinction thereof by the lapse of its term. The debtor should, in such cases discharge all the amounts due from him including the principal, interest and expenses.

Article 168

A bankrupt shall be reinstated after his death upon the request of one of the heirs or any interested party subject to the provisions of the preceding Article.

Article 169

- 1) An application for reinstatement shall be submitted accompanied by the supporting documents to the Court which adjudicated the bankruptcy.
- 2) The Court Clerks shall immediately send copies of the application to the Public Prosecution and the Commercial Register.
- 3) A summary of the application shall be published in a local newspaper at the expense of the bankrupt person. Such summary shall include the name of the bankrupt, the date of the judgement adjudicating bankruptcy and manner of termination of the bankruptcy. Creditors shall be notified to submit objections if required.

Article 170

The Public Prosecution shall, within thirty days from the date of receiving a copy of the application for reinstatement, submit to the Court a report on information about the type of bankruptcy, judgements passed against the bankrupt on bankruptcy offences, trials or investigations conducted in this regard and the opinion of the Public Prosecution on the acceptance or

rejection of the application for reinstatement, provided always that the such opinion shall be supported by reasons.

Article 171

Every creditor who has not recovered his debt is entitled to submit an objection to the application for reinstatement within thirty days from the date of the publication thereof in the newspapers. The objection shall be submitted in writing to the Court Clerks accompanied by the supporting documents.

Article 172

The Court Clerks shall upon the lapse of the period prescribed by the preceding Article, notify the creditors who submitted objections to the application for reinstatement of the date of the session for the hearing for examining the application. Such notice shall be sent by a registered letter with an acknowledgment slip.

Article 173

- 1) The Court shall decide on the application for reinstatement by a judgement which shall be appealable before the high Civil Court of Appeal within one month from the date of the judgement.
- 2) if the Court rejects the application, it may not be submitted again except after the lapse of one year from the date of the judgement.

Article 174

If, prior to deciding on the application for reinstatement, investigations are conducted on one of bankruptcy offences with, or a criminal case is raised against him, the Public Prosecution shall immediately notify the Court. The Court shall suspend decision on the application for

reinstatement pending the completion of the investigations or final judgement on the legal proceedings.

Article 175

If, subsequent to passing judgement of reinstatement, the debtor is convicted of any bankruptcy offence such reinstatement is deemed to be null and void and the debtor may only be reinstated in accordance with the with the provisions of Articles 166 and 167.

CHAPTER 9

SCHEME OF ARRANGEMENT

Article 176

- 1) Any merchant apply for a scheme of arrangement, if his business becomes disorganised in such a maimer as to lead to suspension of payment provided that such siWation is not the result of an act of fraud or gross negligence that may normally be committed by a merchant.
- 2) A merchant who suspends payment his debts may, even if he has applied for adjudication of bankruptcy, apply for a scheme of arrangement if he stipulates the conditions satisfies the preceding Article and provided he submit the application before the lapse of the period fixed by Article 3.
- 3) Save for unregistered partnerships, a scheme of arrangement may be granted to every company if it satisfies the conditions stipulated by the preceding two paragraphs.
- 4) A de facto company may be granted a scheme of arrangement.
- 5) A company in liquidation may not be granted a scheme of arrangement.

Article 177

- 1) A scheme of arrangement may not be accepted unless the merchant, whether an individual or a company, has continuously carried on business during the year preceding the submission of the application and performed during such period all acts required by the provisions relating to the Commercial Register and commercial books.
- 2) A company manager may not apply for a scheme of arrangement until he has obtained permission from the majority of partners of the registered partnerships and simple commandite partnerships or from the ordinary or extraordinary general meeting of other companies.

Article 178

- 1) The persons to whom a place of business have devolved by way of inheritance or will may apply for a scheme of arrangement if they decide to continue carrying on the business, and provided that the merchant would have been able, prior to his death to obtain a scheme of arrangement.
- 2) The heirs or the beneficiaries under the will shall apply for a scheme of arrangement within three months from the date of the merchant's death.
- 3) If the heirs or beneficiaries fail to agree unanimously on applying for the scheme, the Court shall hear the statements of those objecting to the application for the scheme and shall base its decision on the interest of the concerned parties.

Article 179

A debtor may not apply for another petition for a scheme of arrangement while executing another one.

Article 180

The application for a scheme of arrangement shall be made by a petition submitted to the High Court which is competent to entertain an adjudication of bankruptcy where the petitioner shall explain the reasons of the disorganisation of his business, the proposals for the scheme and guarantees for implementing them. if the petitioner is unable to provide all or some of these details, he shall state his reasons therefor.

Article 181

- 1) The petition referred to in the preceding Article shall be accompanied by the following:
 - a) documents supporting the particulars stated therein.
 - b) A certificate issued by the Commercial Register establishing that the merchant's compliance with the rules of the Commercial Register during the year preceding the application for the arrangement.
 - c) a certificate from the Babrain Chamber of Commerce and Industry evidencing that the merchant has been continuously carrying on business during the year preceding the submission of the application for the scheme of arrangement.
 - d) the compulsory commercial books.
 - e) a copy of the balance sheet and statement of profit and loss for the year preceding submission of the application for the scheme of arrangement.
 - f) a summary statement of the personal expenses for the year preceding the application.

- g) a detailed statement of his movable and immovable properties and their approximate value as at the date of application for the scheme of arrangement.
 - h) a list of the names of creditors and debtors, their addresses, value of their rights or debts and securities held for such debts.
 - i) a confirmation by the debtor that he has not previously been convicted of any of the offences provided in Article 184(2) and that he has not concluded a scheme of arrangement which is currently being carried out.
- 2) If the application is made by a company, it shall in addition to the documents mentioned in the preceding paragraph be accompanied by copies of the company's memorandum and articles of association duly attested by the Commercial Register, the identification documents for the capacity of the application, a copy of the resolution of the partners or general meeting requesting the scheme of arrangement, and a list of the names of the jointly liable partners and their addresses.
 - 3) The said documents shall be dated and signed by the applicant for the scheme of arrangement. If it is not possible to provide all or some of these documents or complete the required particulars therein, the reasons for it shall be stated in the application.
 - 4) The Court Clerks shall prepare a process verbal acknowledging receipt of the said documents.

Article 182

- 1) The applicant for a scheme of arrangement shall within such period to be fixed by the Court deposit an amount determined by the Court in the Court Treasury to cover the proceedings expenses, otherwise the application for a scheme of arrangement shall be null and void.

- 2) The Court shall, subsequent to the payment of the deposit provided for in the preceding Article, review the application for a scheme of arrangement in camera.
- 3) The Court may order that the necessary measures be taken for Preserving the assets of the debtor pending decision on the application for the scheme of arrangement.

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Article 183

- 1) The Court may appoint one of the judges or an expert to investigate the debtor's financial affairs, reasons for disorganisation thereof and submit a report thereon. The Court may summon the debtor to hear his statements.
- 2) The Court shall urgently decide on the application by a final judgement.

Article 184

The Court should reject the application in the following situations:

- 1) Where the applicant for a scheme fails to produce the documents and information provided for in Article 181 or if he submits incomplete information without any accepted justification.
- 2) Where the merchant has been previously convicted of an offence of fraudulent bankruptcy, forgery, theft, fraud, issuing a cheque without sufficient funds, breach of trust or embezzlement of public money.
- 3) If a merchant resigns his business or if he closes down his place of business so as to create the impression that he is resigning his business or if he absconds.

Article 185

If the Court decides to reject the application for a scheme of Li arrangement, it may impose a fine on the merchant not less than BD 100 and no more than BD 300, if it is established to the Court that he has deliberately given the impression of disorganisation of his financial business or has caused such disorganisation.

Article 186

- 1) If the Court decides to accept the application, it shall order commencement of the proceeding for the scheme of arrangement.
- 2) The court judgement shall include the following:
 - a) the appointment of one of the judges to supervise the scheme of arrangement procedure.
 - b) the appointment of one supervisor or more to conduct the scheme of arrangement procedures.
 - c) the fixing of a date for the creditors' meeting to prove the debts and to discuss the proposals of the scheme; the creditors' meeting shall be convened within the thirty days following the passing of the judgement ordering commencement of the proceedings. The Court may, at the request of the appointment, order the adjournment of the meeting if it deems necessary.

Article 187

The spouse of the debtor, his relative, or in-law to the fourth degree, his partner, employee, accountant or agent of the debtor during the period of three years preceding submission of the application for a scheme of arrangement may not be appointed supervisor.

Article 188

- 1) The Court Clerks shall notify the supervisor of the judgement appointing him as such within not more than the two days following the passing thereof.
- 2) The supervisor shall, within seven days from the date of the notification of the judgement, commence the proceedings of the scheme of arrangement in the Commercial Register and publishing a summary of the judgement in a local newspaper to be named by the judge and shall call the creditors to attend the meeting.
- 3) The supervisor shall within the period prescribed in the preceding paragraph send the notice of the meeting together with the proposals of the scheme, to the creditors whose addresses are known by a registered letter with an acknowledgement slip.

Article 189

- 1) The judge shall within not more than two days from the date of his appointment proceed to close and place his signature on the books of the debtor.
- 2) The supervisor shall within not more than two days from the date of his appointment proceed to carry out an inventory in the presence of the debtor and Court Clerk.

Article 190

- 1) The debtor shall continue to to manage his properties under the control of the supervisor after passing the judgement for the commencement of the scheme of arrangement. He shall be entitled to carry out all normal acts necessitated by his business. However, any gifts made by the debtor following the passing of the said judgement shall not be valid towards the creditors.

- 2) Furthermore, the debtor may not after the passing of the said judgement enter into any compromise or mortgage of whatever nature, or make a disposal if not required for carrying on his ordinary activities, unless he has obtained permission to do so from the designated judge. Any disposal to the contrary shall not be valid towards the creditors.

Article 191

- 1) As soon as the judgement commencing the proceedings of the scheme is passed, all judicial suits brought and executions against the debtor shall cease. Debtors jointly liable with and the guarantors of the debtor shall not benefit of the judgement; however all judicial suits and executions raised by the debtor execution shall remain valid and the supervisor shall be involved in them.
- 2) Upon passing of judgement commencing the proceedings of the scheme, entry of mortgages, and charges imposed the debtor's properties may not be invoked towards the creditors.

Article 192

The passing of the judgement commencing the proceedings of the scheme of arrangement shall not accelerate payment of the debtor's debts nor suspend calculation of interest thereon.

Article 193

If, after submission of the application for a scheme of arrangement, the debtor conceals or destroys part of his properties or dishonestly carries out any disposals in violation to the provisions of Article 190, the Court may of its own motion order the cancellation of the scheme of arrangement.

Article 194

- 1) The creditors, even if their debts have not matured, guaranteed by special securities or have been established by fmai court judgement, shall deliver to the supervisor within fifteen days from the date of publishing in a newspaper the summary of the judgement for the commencement of the proceeding of the scheme of arrangement, documents pertaining to their debts accompanied by details of such debts and securities, if any, and the amount thereof denominated in Babraini currency at the exchange rate prevailing on the date of the judgement. (Moreover, the statement and the supporting documents may be sent to the supervisor by a registered letter with an acknowledgement slip.
- 2) The period fixed by the preceding paragraph shall be executed to thirty days in the case of creditors residing outside the State of Bahrain.

Article 195

- 1) The supervisor shall, after the expiry of the period prescribed by the preceding Article, prepare a list of the names of creditors who have requested participation in the scheme of arrangement and shall separately indicate the amount of each debt accompanied by the supporting documents and providing the securities given therefor, if any. He shall also state his opinion on the acceptance or rejection of each these debts.
- 2) The supervisor shall require the creditor to make clarifications on the debt or complete their documents or amend the amount or description of such debts.

Article 196

- 1) The supervisor shall deposit a list of the debts in the Court. The deposit shall be made within not more than thirty days from the date of the judgement for the commencement the scheme of arrangement proceedings. The said period may be extended, if necessary, by a decision of the judge.
- 2) The supervisor shall within no later than the two days following the deposit publish a statement in a local newspaper to be selected by the judge of the occurrence of the deposit. The supervisor shall send to the debtor and each creditor a copy of the list of debts and the amounts which he deems admissible.
- 3) Every interested party shall be entitled to review the list deposited in the Court.

Article 197

The debtor and every creditor whose name has been included in the list of debts shall have the right to submit an objection to the debts included in the list within ten days from the date of publication of the occurrence of the deposit in the newspaper. The objection shall be submitted to the judge, and it may be sent by a registered letter or a telegram.

Article 198

- 1) The judge shall, upon the expiry of the period fixed in the preceding Article, draw up a final list of the admitted debts and shall indicate in the particulars of each debt whether it has been admitted and the amount admitted thereof.
- 2) The judge may consider the debt as disputed even though no objection has been submitted in respect thereof.
- 3) The judge shall resolve the disputed debts within thirty days from the lapse of the period fixed for submission of an objection.

- 4) The designated judge shall notify the concerned parties of the date of the session at least three days before the fixed date thereof. He shall also notify them of the decision passed on the objection immediately after it has been taken.

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Article 199

- 1) The decision adopted by the judge for the admission or rejection of the debt is appealable.
- 2) The appeal shall not suspend the scheme of arrangement proceedings unless an order is issued in this respect by the judge.
- 3) Pending a decision on the objection, the designated judge may decide provisionally to admit the debt with an amount determined by him.
- 4) A debt may not be provisionally admitted if a minimal case is brought in respect thereof.

Article 200

Creditors who fail to produce their debts' documents within the period prescribed by Article 194 and creditors whose debts are not finally or provisionally admitted shall not participate in the scheme of arrangement.

Article 201

- 1) The judge shall, after completing the verification of debts, fix a date for the meeting of creditors to discuss the proposals for the scheme of arrangement. A notice to attend the meeting shall be sent to every creditor whose debt has been finally or provisionally admitted.
- 2) The judge may order the publication of the notice in a local newspaper of his selection.

Article 202

- 1) The supervisor shall, at least seven days before the date fixed for the creditors' meeting, lodge a report with the Court Clerks about the debtor's financial affairs, the causes of disorganisation thereof and a list of the names of creditors who are entitled to participate in the scheme of arrangement procedures.
- 2) The report shall contain the supervisor's opinion with regard to the conditions proposed by the debtor with regard to the scheme of arrangement.
- 3) Every interested party may apply to the judge for permission to review the supervisor's report.

Article 203

- 1) The creditors shall hold their meetings on the fixed date and then meeting shall be presided over by the judge on the date set for the meeting.
- 2) A creditor may appoint a proxy to attend the meeting on his behalf.
- 3) The debtor shall attend the meeting in person; and he may not appoint any other person to attend the meeting on his behalf unless he has serious reasons acceptable to the judge.

Article 204

Discussion of the conditions for the scheme of arrangement shall not take place except after reading the supervisor's report on the debtor's financial affairs.

The debtors may modify the terms of the scheme of arrangement during the discussion.

Article 205

- 1) The scheme of arrangement shall only be concluded with the consent of the majority of the creditors whose debts have been admitted finally or provisionally, provided that the such majority holds two thirds of the debts. In the calculation of these two majorities, the creditors who have not participated in the voting shall not be included nor shall their debts be calculated.
- 2) If the debtor falls to attain either of the two majorities provided for in the preceding paragraph, the judge shall adjourn the meeting for ten days without any further extensions.
- 3) The creditors who were present or represented at the first meeting and signed the minutes thereof may not attend the second meeting, in which case the resolutions passed and consents given by them at the first meeting shall be valid for the Li second meeting, unless they attend the second meeting and amend their decisions or where the debtor amends his proposals of the scheme during the period between the two meetings.

Article 206

Every creditor whose debt is deemed as an unsecured debt according to bankruptcy provisions is entitled to vote on the scheme of arrangement for his entire debt determined according to Article 198, even where he receives thereafter part of his debt from a person jointly liable with, or the guarantor of, the debtor.

Article 207

- 1) Creditors holding securities in kind on the debtor's property may not participate in the voting on the scheme with respect to such debts unless they forfeit such securities beforehand. Forfeiture may be restricted to part of the security provided such part is not less than the

equivalent of one third of the debt. The forfeiture shall be recorded in the minutes of the meeting.

- 2) If one of the creditors mentioned in the preceding paragraph participates in the voting on the scheme of arrangement without declaring forfeiture of all or part of his security he shall be deemed to have forfeited his entire security.
- 3) In all cases, forfeiture of security shall not be final unless the scheme is concluded and approved by the Court.
- 4) If the scheme is annulled, the forfeited security shall be reinstated.

Article 208

- 1) The bankrupt's spouse, his relatives and in-laws to the fourth degree are not entitled to participate in the discussion or vote on the terms of the scheme.
- 2) Where one of the creditors referred to the preceding paragraph assigns his debt in favour of a third party after the passing of the judgement to commence the scheme proceedings, the assignee may not participate in the discussions nor vote on the terms of the scheme.

Article 209

- 1) The minutes of the scheme must be signed at the meeting where in the voting on the scheme was made, otherwise it shall be null and void.
- 2) Minutes of the meeting for the scheme of arrangement shall be prepared and shall be signed by the designated judge, the supervisor, the debtor and the creditors present.
- 3) Prior to signing the minutes the judge shall pass a resolution to be recorded in the minutes fixing a date for a hearing before the Court to consider the approval of the scheme, provided that the date of the

hearing shall be convened within not more than twenty days from the date of signing of the minutes.

Article 210

Apart from the cases provided for in the Law, the orders and resolutions passed by the judge shall not be appealable in any manner.

Article 211

- 1) The scheme may provide for allowing the debtor periods of time for repayment of the debts. It may also provide for discharging the debtor of part of the debt; however the debtor shall remain liable for this discharged part as a natural debt.
- 2) A scheme may be agreed on the condition of full payments should the debtor become solvent within a period determined in the contract of the scheme, provided that it shall not exceed five years from the date of approving the scheme. The debtor shall only be deemed to have become solvent when the value of his assets exceeds the value of his debts.
- 3) The creditors may require that one or more guarantors be provided to guarantee the performance of the terms of the scheme.

Article 212

- 1) Every creditor who does not approve the scheme may attend the approval session and record his objection.
- 2) The Court shall, after hearing a report from the judge, either approve or reject the scheme.

Article 213

- 1) Where the Court approves the scheme, it shall appoint from amongst the number of creditors one or more supervisors to supervise the performance of the terms of the scheme and report to the Court any violations to these terms.
- 2) The supervisor shall not receive any remuneration for his work.

Article 214

The Court shall reject the scheme of arrangement where the proceedings provided for in the preceding Articles are not complied with or where grounds are revealed relating to the public interest or the creditors' interest justifying rejection of the approval of the scheme.

Article 215

- 1) The judgement approving the scheme shall be published in accordance with the provisions applicable manner for the publication of adjudication of bankruptcy.
- 2) The summary of the judgement to be published in the newspapers shall include the name of the debtor, domicile, commercial registration number, the Court which has approved the scheme and the date of approval.
- 3) The scheme supervisor, in his capacity as a representative of the creditors, shall within fifteen days from the date of entering the judgement approving the scheme seek the registration of a summary thereof in the Land Registration Directorate if the debtor owns any real estate. The registration shall have the effect of creating a mortgage over the aforesaid real properties for securing the rights of creditors who are subject to the scheme unless the scheme contract provides otherwise. Subsequent to the performance of the terms of the scheme, the supervisor shall cancel the mortgage.

Article 216

Judgements approving the scheme shall not be appealable. However, the debtor may appeal against the judgement passed for rejecting the scheme of arrangement within fifteen days from the date of passing or publication of the judgement, as the case may be.

Article 217

The Court shall not decide on any petition for the adjudication of the debtor's bankruptcy except after deciding to reject the scheme of arrangement.

Article 218

- 1) The scheme of arrangement shall be applicable to all the creditors whose debts are deemed to be unsecured debts in accordance with the bankruptcy provisions even if they do not participate in the proceedings or approve the scheme.
- 2) The debtors who are jointly liable with the debtor or the guarantors of his debts shall not benefit from the scheme. However, where the scheme of arrangement is concluded with a company, jointly liable partners with respect to the debts thereof shall benefit of its terms, unless the scheme provides otherwise.
- 3) The scheme of arrangement shall not be applicable to alimony debts nor to debts which arose after the passing of the judgement for the commencement of the scheme proceedings.

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Article 219

The Court which approved the scheme may allow the debtor, at his request and after hearing the statements of the creditors, periods of time

for repayment of the debts which are not covered by the scheme of arrangement which would have arisen prior to the judgement to open the proceedings, provided that the said periods shall not exceed the periods prescribed in the scheme contract. This provision shall not apply to the debts of a limony.

Article 220

The approval of the scheme shall not deprive the debtor from taking advantage of periods which are longer than the periods prescribed by the scheme contract.

Article 221

- 1) The supervisor of the scheme of arrangement shall, within thirty days from the date on which the performance of the terms of the scheme has been completed, apply to the Court which approved the scheme to close the proceedings. The said application shall be published in the manner prescribed in Article 188.
- 2) A judgement closing the proceedings shall be passed within thirty days from the date of the advertisement referred to in the preceding paragraph. Such judgement shall be entered in the Commercial Register in accordance with the relevant provisions of the Register.

Article 222

- 1) The scheme of arrangement shall be null and void if it is revealed after the approval thereof that there is an act of fraud on the part of the debtor. Any concealment of funds, fabrication of debts or exaggerated assessment of such debts are deemed to be acts of fraud. An application for annulment of the scheme shall be submitted within one year from the date on which the act of fraud is revealed, otherwise the

application shall not be accepted. In all cases an application for annulment of a scheme of arrangement shall not be accepted if it is submitted after three years from the date of passing the judgement for the approval of the scheme.

- 2) The annulment of the scheme of arrangement shall discharge the guarantor who guaranteed the performance of the terms thereof.
- 3) The creditors shall not be obliged to refund the parts of the debts they have received prior to the passing of the judgement for the annulment of the scheme of arrangement.

Article 223

- 1) An application may be submitted for recession of the scheme of arrangement if the debtor fails to perform the terms thereof. An application for recession of the scheme may also be submitted if the debtor dies and it becomes evident that the performance of terms is not expected.
- 2) The recession of the scheme of arrangement shall not discharge the guarantor who guaranteed the performance of the terms thereof. He shall be summoned to appear before the court at the session fixed for consideration of the application for recession.

Article 224

- 1) The judge shall determine the supervisor's remuneration. The decision taken in this respect shall be lodged with the Court Clerks on the following day.
- 2) Every interested party may object against such decision within one week from the date of its deposit. The judgement passed on the objection shall be final

CHAPTER 10
OFFENCES OF BANKRUPTCIES
AND SCHEME OF ARRANGEMENT

Article 225

Relevant provisions of the Penal Code shall apply to bankruptcy offences.

Article 226

Institution of a criminal case for fraudulent or default bankruptcy shall not have the effect of altering the provisions regarding the bankruptcy proceedings, unless the law provides otherwise.

Article 227

- 1) The Bankruptcy or the supervisor in the scheme of arrangement shall submit to the Public Prosecution all the documents, papers, clarifications and information that it may request.
- 2) The documents and papers shall, in the course of the investigation or trial, shall be kept in the Criminal Court; and the Bankruptcy or the supervisor shall shall be entitled to read them or apply to obtain official copies thereof, unless the Court instructs otherwise.
- 3) After the completion of the investigation or the trial, the documents and papers shall be returned to the Bankruptcy or supervisor against a receipt.

Article 228

Without prejudice to any more severe penalty provided for in the Penal Code, the debtor shall be punishable by imprisonment for a term not exceeding five years:

- 1) If he willfully conceals all or part of his properties or has exaggerates the value thereof with a view to obtaining a scheme of arrangement.

- 2) If he deliberately enables a false or prohibited creditor to participate in the scheme of arrangement or enables a creditor who exaggerates his debt to participate in the discussions and voting or knowingly allows him to participate therein.
- 3) If he deliberately omits to mention a creditor in the list of creditors.

Article 229

Without prejudice to any more severe penalty provided for in the Penal Code, a creditor shall be punishable by imprisonment for a period not exceeding two years:

- 1) if he deliberately exaggerates in the assessment of debt owed to him.
- 2) If he participates in deliberations or voting on a scheme of arrangement knowing that he is prohibited from such participation.
- 3) if he concludes with the debtor a secret agreement which grants special benefits to the detriment of the remaining creditors with his knowledge.

Article 230

Without prejudice to any more severe penalty provided for in the Penal Code, a prison sentence for a period not exceeding two years shall be inflicted upon:

- 1) Every person who is not a creditor but has knowingly participated in discussion of or voting on a scheme of arrangement.
- 2) Every supervisor who has deliberately provided false information about the state of the debtor or confirmed such information.

Article 231

A summary of the judgement or conviction for an offence of bankruptcy of scheme of arrangement shall be published at the expense of the

bankruptcy or the convicted person, as provided for in the judgement, in one of the local newspapers selected by the Court.

Article 232

If the offence relates to an agreement made by the debtor with one of the creditors to grant the creditor special privileges in consideration of voting on the scheme of arrangement or for the detriment of the remaining creditors, the Criminal Court may decide of its own motion the annulment of the said agreement and order the creditor to return what he has acquired by virtue of the void agreement, even if the judgment with on to the offence establishes his innocence.