

NB: Unofficial translation

Decree on the Adjustment of the Debts of a Private Individual

(58/1993)

Section 1

Petition forms

The general lower courts shall keep the forms for the petition for debt adjustment and the draft payment schedule available to the public free of charge.

Section 2

Annexes of the petition

The debtor shall annex the following to his petition for debt adjustment:

- 1) copies of the tax certificates of the debtor and the other adults living in the same household, for the past three years;
- 2) wage/salary certificates from the employers of the debtor and the spouse of the debtor, indicating the aggregate wages/salaries for the preceding and the current calendar year as well as the actual wages/salaries for the latest month;
- 3) copies of the decisions or other documents indicating the pension, unemployment benefit, retraining benefit, health insurance per diem, maternity benefit or other benefit per diem, home care subsidy, rent subsidy, student subsidy or other benefit of the debtor and the spouse of the debtor, as well as the duration of the said benefits;
- 4) on a confirmed form, an account of the business income of the debtor and the spouse of the debtor, divided into agricultural income and other business income;
- 5) a written statement or other document by the payer indicating the debtor's and the spouse's income other than that referred to in subparagraphs (2)—(4);
- 6) copies of the documents indicating the rent, maintenance charges or other living expenses of the debtor;
- 7) copies of the court order or agreement on maintenance payable by the debtor to his child, and an account on the amount of the maintenance;
- 8) copies of the receipts or other documents indicating the outstanding principal of his debts, excluding those of less than FIM 2 000, as well as copies on his lien commitments;
- 9) as regards stock, shares or a guaranteed rental entitling to the possession of an apartment, a document indicating the ownership share of the debtor;
- 10) a written account of how the estimates of the value of the assets of the debtor have been arrived at; and
- 11) a written account of illness, unemployment, disability to work or other change in circumstances relevant to the petition.

Section 3

Business accounts

A person pursuing a private business shall also annex to his petition copies of his initial declaration of starting a business and his latest annual accounts. A partner in an unlimited partnership and a general partner in a limited partnership shall annex to his petition a copy of the trade register entry of the partnership, its latest annual accounts and a statement of the auditors on the finances of the partnership. A debtor who pursues a business as the shareholder-manager of a limited-liability company shall annex to his petition a copy of the trade register entry of the company and its latest annual accounts.

A debtor who has pursued a business and who has more than little adjustable debts which have risen from the business shall annex the following accounts to his petition:

- 1) a written account on the legal form of the business, the field and extent of the operations and the ownership structure of the business for the last three years of operation;
- 2) a written account of the closing of the business and its reasons;
- 3) for the three years before the closing of the business, copies of the annual accounts, a written account of its profitability, accounts of the transfers of funds for the private use of the debtor and the wages/salaries paid to the debtor and his family or, if such accounts cannot for some part be produced, the reason for the same; and
- 4) a written account on how much of the business-related debts of the debtor has been repaid since the closing of the business and when such payments have been made.

Section 4

Accounts on real estate

The court shall obtain the mortgage and title certificates relating to any real estate owned by the debtor. It shall obtain the corresponding information on any rentals or other rights held by the debtor over the real estate of another.

Section 5

Forwarding the annexes to a creditor

On the request of a creditor, the court shall forward him copies of the annexes to the petition of the debtor.

Section 6

Provisions on enforcement

When the payment schedule has been confirmed, the bailiff shall notify the appropriate authorities of the lapse of the distraint proceedings.

If the debtor has been ordered to make all the payments or some of them to a bailiff, to be passed to the creditors, as provided in section 41 of the Act on the Adjustment of the Debts of a Private Individual (57/1993), the bailiff shall pass the payments to the creditors observing, in so far as appropriate, the provisions in the Enforcement Act and Enforcement Decree. However, the bailiff may postpone passing the payments to the creditors for at most three months.

The debtor shall be issued a receipt for payments made to the bailiff, as provided in section 1 of the Decree on State Receipts (468/1978).

The debtor shall be exempt, as regards payments made to the bailiff, from the enforcement fee provided in the Decree on Enforcement Fees (161/1985).

Section 6a

Disregard of an insignificant portion (64/1997)

If there are more creditors than one, a creditor whose portion would be less than FIM 100 may be disregarded when payments are made. Such a creditor may be disregarded also when the payment schedule is being modified and when the debtor makes the payments referred to in subparagraph (2) or (3) of section 44(2) to the creditors.

Section 6b

Disregard of an unknown creditor (64/1997)

If there is an adjustable debt referred to in section 28 a of the Act on the Adjustment of the Debts of a Private Individual owed to a business and it has not been possible to contact the creditor, the debt may be disregarded in the payment schedule if it is less than FIM 10 000.

Section 6c

Change in the ability of the debtor to pay (64/1997)

A change in the ability of the debtor to pay may be deemed essential, if it has improved due to an increase in income or a decrease in expenses, from a change in his living arrangements or costs, amounting to at least FIM 3 600 per calendar year or if the debtor gets an inheritance, gift or other one-off income amounting, by itself or together with other payments, to FIM 6 000.

Section 7

Debt adjustment register and its purpose

The Legal Registers Centre maintains a computerised debt adjustment register to ensure the realisation of payment schedules, the prevention of new indebtedness surpassing the ability of the debtors to pay and the determination of the prerequisites for debt adjustment, as well as to serve statistical and research purposes. (64/1997)

The courts enter information into the register by direct upload, as instructed in greater detail by the Ministry of Justice.

Section 8

Data structure of the debt adjustment register

The court deciding the matter shall without delay enter the following information into the debt adjustment register, as instructed in greater detail by the Ministry of Justice:

- 1) the name, personal identity code, address, telephone number and domicile of the debtor;
- 2) the court, its address and telephone number and the filing data of the matter;
- 3) the petitioner, his address and telephone number;
- 4) as regards the matter:
 - a) the filing date;
 - b) the dismissal of the petition or the other court order terminating court proceedings on the matter;
 - c) the start of debt adjustment;
 - d) the confirmation of the payment schedule and its starting and ending dates, separately for ordinary debts and secured debts, where necessary;
 - e) the lapse of the payment schedule;
 - f) the modification of the payment schedule and its ending date;
 - g) data on appeal;
 - h) the name of the administrator and his address and telephone number; and
 - i) the other pertinent data as instructed by the Ministry of Justice. (64/1997)

If the payment schedule lapses by virtue of section 47 of the Act on the Adjustment of the Debts of a Private Individual, the entries shall be made by the court where the restructuring proceedings are pending.

Section 9

Erasure of the data from the register

The data on the register subjects and the debt adjustment shall be erased from the register:

- 1) after the end of the course of the payment schedule;
- 2) at most six months after the termination of the court proceedings on the matter for a reason other than the dismissal of the petition; or
- 3) after two years from the dismissal of the petition or the issue of the order on the lapse of the payment schedule.

The provisions in section 15 of the Personal Data File Act (471/1987) apply to the rectification of errors. The Legal Registers Centre shall archive the data erased from the register.

Section 10

Mass delivery of personal data (64/1997)

Personal data contained in the debt adjustment register may be delivered via a computer interface or otherwise as a mass delivery referred to in the Personal Data File Act. The permission may be granted to the courts for purposes of debt adjustment, to the enforcement, taxation, police or other authorities for purposes of collection and enforcement and to credit data agencies for purposes of credit data service. The permission to access the register via a computerised interface may also be granted to those needing the information for purposes of extending and monitoring credit.

Section 11

Entry into force

This Decree enters into force on 8 February 1993.