

## **Federal Decree Law No. 19**

Issued on 29/8/2019

Corresponding to 28 Dhu Al-Hijjah 1440H.

### **ON INSOLVENCY**

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Pursuant to the perusal of the Constitution;
  - Federal Law No. (1) of 1972 on Competencies of the Ministries and Powers of the Ministers and its amendments;
  - Federal Law No. (5) of 1985 promulgating the Civil Transactions Law and its amendments;
  - Federal Law No. (3) of 1987 promulgating the Penal Code and its amendments;
  - Federal Law No. (10) of 1992 promulgating the Law of Evidence in Civil and Commercial Transactions and its amendments;
  - Federal Law No. (11) of 1992 promulgating the Civil Procedure Law and its amendments;
  - Federal Law No. (35) of 1992 promulgating the Penal Procedure Law and its amendments;
  - Federal Law No. (18) of 1993 promulgating the Commercial Transactions Law and its amendments;
  - Federal Law No. (18) of 1995 on Simple Crafts;
  - Federal Law No. (4) of 2004 on Financial Free Zones;
  - Federal Law No. (1) of 2006 on Electronic Commerce and Transactions;
  - Federal Law No. (7) of 2012 on the Regulation of Expertise before the Judicial Authorities;
  - Federal Law No. (2) of 2015 on Commercial Companies and its amendments;
  - Federal Decree-Law No. (9) of 2016 on Bankruptcy;
  - Federal Law No. (13) of 2016 on Judicial Fees before Federal Courts;
  - Federal Law No. (20) of 2016 on Mortgage of Movable Property;
  - Federal Decree-Law No. (14) of 2018 on the Central Bank and the Regulation of Financial Institutions and Activities; and
  - Based on the proposal of the Minister of Finance and the approval of the Council of Ministers;
- Hereby issue the following Decree-Law:

### **Book 1**

#### **Definitions and Scope of Application**

##### **Article 1- Definitions**

In the application of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned thereto, unless the context otherwise requires:

State: The United Arab Emirates.

Ministry: The Ministry of Finance.

Minister: The Minister of Finance.

Court: The competent court in accordance with the rules of jurisdiction contained in the Federal Law No. (11) of 1992 hereabove mentioned.

Debtor: The insolvent physical person.

Debtor's Debt: Debts due by the debtor and arising from an obligation thereof prior to the date of the Court's decision to open the Insolvency proceedings.

Debtors' Funds: Movable and immovable properties owned by the Debtor on the date of the decision to open the Insolvency proceedings or during any of the proceedings provided for in this Decree-Law.

Debtor's Business: The activities wherein the Debtor has been engaged or is still engaged while taking any of the proceedings provided for in this Decree-Law.

Cessation of Payment: The Debtor's inability to pay any outstanding debt.

Interested Party: A physical or juristic person who has a right or interest in any proceedings provided for in this Decree-Law.

Exchange Rate: The exchange rate of the AED against foreign currencies declared by the Central Bank of the United Arab Emirates.

Measures: Necessary measures taken by the Court with a view to the safekeeping or management of the Debtor's Funds in accordance with the provisions of this Decree-Law.

Roster of Experts: The Roster of Experts accredited in accordance with the provisions of the Federal Law No. (9) of 2016 hereabove mentioned.

Expert: The Expert registered in the Roster of Experts.

Trustee: The Trustee appointed by the Court from among the Experts on the Roster of Experts.

Plan: The plan for the settlement of the Debtor's financial obligations, prepared in accordance with the provisions of this Decree-Law.

Insolvency: Facing current or anticipated financial difficulties that render the Debtor unable to pay his debts.

### **Article 2- Scope of Application**

The provisions of this Decree-Law shall apply to Debtors who are not subject to the provisions of Federal Decree-Law No. (9) of 2016 above mentioned.

## **Book 2**

### **Settlement of Financial Obligations**

#### **Chapter 1**

#### **Application to Open the Financial Settlement Proceedings**

### **Article 3- Submission of the Application**

The Debtor may file with the Court, an application without litigating any person therein, to settle his financial obligations in accordance with the provisions of this Decree-Law, provided that the following documents are attached thereto:

1- A memorandum containing a brief description of the Debtor's financial position and any data relating to his sources of income, both inside or outside the State, his professional, vocational or craft status, as the case may be, and his liquidity projections and sources thereof within a period of twelve (12) months following the submission of the application.

2- A statement of the names and addresses of creditors whose debts are not paid or are not expected to be paid by the Debtor, the amount of each debt, the dates of maturity thereof and the securities provided to the creditors, if any.

3- A detailed statement of the Debtor's movable and immovable property inside and outside the State and the approximate value of each on the date of submission of the application.

4- A statement of any legal or judicial proceedings or actions taken against the Debtor.

5- A statement by the Debtor that he is facing current or anticipated financial difficulties and that he is unable or is expected not to be able to pay all of his debts, whether due at the time of submission of the application or in the future.

6- The funds necessary to support the Debtor, his family and any dependents thereof.

7- The Debtor's proposals to settle his financial obligations.

8- The Debtor's nomination of an Expert to undertake the proceedings in accordance with the provisions of this Decree-Law.

9- A statement of the disclosure of financial transfers outside the State that took place during the last twelve (12) months.

10- Any other documents supporting the application or requested by the Court.

#### **Article 4- Failure to Complete the Required Data**

1- If the Debtor is unable to provide any of the documents or data required in accordance with the provisions of Article (3) of this Decree-Law, he shall state the reasons therefor in his application.

2- If the Court deems that the documents submitted are not sufficient to decide on the application, it may grant the debtor a time-limit for the submission of any additional data or documents.

#### **Article 5- Payment of Fees and Expenses**

1- The Debtor shall pay the judicial fees.

2- The Court shall estimate the expertise fees and the expenses expected for the financial settlement proceedings and notify the Debtor thereof no later than the day following the submission of the application.

3- The Debtor shall deposit with the Court's treasury a cash amount or a bank guarantee on the date determined by the Court to cover the expertise fees and the expenses expected to be incurred for the financial settlement proceedings.

4- The Court may, at the request of the Debtor, postpone the deposit of the cash or bank guarantee provided for in clause (2) of this article, if the Debtor does not have the necessary funds to cover the said expenses and fees on the date of submission of the application, provided that such expenses and fees be paid in preference to all other creditors.

#### **Article 6- Taking Measures**

The Court may decide, at the request of any Interested Party or on its own initiative, to take the necessary Measures so as to preserve the Debtor's Funds until determination of the application, or during the settlement of financial obligations.

#### **Article 7- Deciding on the Application**

1- The Court shall decide on the application without notice or pleading, within a period not exceeding five (5) working days from the date of submitting the application that fulfils its conditions.

2- If the Court accepts the application, it shall rule to open the proceedings for the settlement of financial obligations.

3- The Court's decision to accept the Debtor's application for the settlement of his financial obligations shall result in the suspension of the creditor's right to request execution against the Debtor's Funds or the opening of his Insolvency and liquidation proceedings. Such suspension shall continue during the period of the Debtor's proceedings of the settlement of financial obligations.

4- With the exception of the provision of clause (3) of this article, the creditor having a secured debt, shall have the right to execute against his securities, when his debt is due, provided that he obtains permission from the Court. The Court shall decide on granting the permission within ten (10) working days from the date of submission of the application without litigation. The Court shall, upon granting permission, verify that there is no collusion between the Debtor and the secured creditor, as well as the secured creditor's priority category if there is more than one creditor having a lien on the same fund.

5- The Court's decision to deny permission may be challenged before the Court of Appeal. The appeal shall not result in the stay of the proceedings for the settlement of financial obligations. The decision issued in the appeal shall be considered final.

6- The decision of the Court shall result in the suspension of the Debtor's obligation to apply for his Insolvency and liquidation of his funds. Stay of execution shall continue during the period of settlement of financial obligations unless the Debtor breaches his obligations as set out in the Plan, pursuant to the provisions of this Decree-Law.

7- The Debtor's application for the settlement of his financial obligations shall not result in the maturity of deferred debts on the date of submission of the application.

#### **Article 8- Assignment of the Expert**

1- The Court shall, in the decision to open the proceedings of the settlement of financial obligations, assign one or more Experts to assist the Debtor therein.

2- If more than one Expert is appointed, they shall perform their duties jointly and the decisions shall be taken by majority. In case of equal votes, the matter shall be referred to the Court. The Court may divide the tasks among the Experts and determine their mode of work, whether jointly or individually.

3- The Court shall notify the Expert of the decision of his appointment no later than the day following the issuance of its decision to open the proceedings and shall provide him with all the information available thereto on the application.

4- The Expert shall not be a creditor of the Debtor or associated therewith in any interest or kinship up to the fourth degree.

5- The Expert shall assume his functions as soon as he is informed of his appointment decision.

6- Within five (5) working days from the date of his notification of the appointment decision, the Expert shall publish the summary of the decision to open the proceedings in two widely circulated local daily newspapers, one in Arabic and the other in English. The publication shall include an invitation to creditors to submit their claims and supporting documents, provided that the same be delivered to the Expert within a period not exceeding twenty (20) working days from the date of publication.

7- The Expert may request any data or information from the Debtor or from any other person with information relating to the settlement proceedings, and in the event of failure to provide such data or information, the matter shall be brought before the Court.

8- The Debtor shall provide the Expert with any additional details on his creditors or the debt's amounts, of which the Court has not been notified, and that, within the period specified by the Expert.

9- The Expert may submit to the Court any request to assist him in the performance of his duties as required, including a request for disbursement of any amounts to cover the expenses and fees necessary for the conduct of the proceedings.

#### **Article 9- Submission of Debt Documents**

1- Creditors, even if their debts are not urgent or are secured, shall hand over the Expert within the period specified in clause (6) of Article (8) of this Decree-Law, their debt documents accompanied by the statements and collaterals thereof, if any, and the dates of their maturity and

amount thereof in AED as per the Exchange Rate on the date of issuance of Court's decision to open the proceedings.

2- The Expert may request the creditor whose claims have been submitted, to provide clarifications on the debt or to complete the documents relating thereto, or to have any of his claims certified by the creditor's auditor or an independent auditor.

#### **Article 10- Debt's Report**

1- The Expert shall prepare a list of all the Debtor's creditors with the address of each of them, the amount and maturity date of the debt, a statement of the holders of the secured debts and securities prescribed for each of them, the estimated value of such securities, if any, and any other data deemed necessary by the Expert to perform his duties.

2- Subject to clause (1) of this article, the Expert shall prepare a report on the Debtor's Funds and indebtedness and all circumstances relating to his default or Cessation of Payment and shall submit the same to the Court within twenty (20) working days from the date of expiry of the period granted to creditors as per clause (6) of Article (9) of this Decree-Law for the submission of their debts documents. He shall also indicate in his report the possibility of settling financial obligations or otherwise, in the light of the Debtor's income sources.

3- The Court may, at the request of the Expert, grant him additional time to prepare the report mentioned in clause (2) of this article.

#### **Article 11- Report's Audit**

1- The Expert's report shall be audited by the Court to verify the Debtor's Debt.

2- If the Court deems it necessary to complete the proceedings for the settlement of financial obligations, it shall issue a decision instructing the Expert to prepare the Plan.

#### **Article 12- Rejection of the Application**

In all cases, the Court shall rule the completion of the proceedings for the settlement of financial obligations and the rejection of the application for settlement of financial obligations in the following cases:

1- If it is established to the Court that the Debtor has carried out any action or refrained therefrom with a view to concealing or destroying any part of its funds.

2- If the Debtor has provided false statements on his debts, rights or funds.

3- If the Debtor has ceased to pay any of his debts on the maturity date thereof for more than fifty (50) consecutive working days, as a result of his inability to pay such debts.

### **Chapter 2**

#### **Preparation of a Plan for the Settlement of Financial Obligations**

##### **Article 13- Presentation of the Plan to Creditors**

1- The Expert shall prepare the Plan in cooperation with the Debtor, provide the creditors with a copy thereof and deposit a copy with the Court within twenty-two (22) working days from the date of the Court's decision to instruct the Expert to prepare the Plan.

2- The Court may authorise the extension of the Plan deposit period if the need arises.

3- The Expert shall co the Debtor and creditors to one or more meetings, at a specified place and date, to discuss and vote on the Plan. The first meeting shall be held within a period not exceeding ten (10) working days from the date of providing creditors with a copy of the Plan in accordance with clause (1) of this article.

4- The Expert may send the invitation to attend the meeting provided for in clause (3) of this article by any possible means of communication.

5- The Expert may invite creditors to other meetings during the preparation of the Plan, or postpone the date of the meeting of creditors, taking into account the number of creditors known thereto and any other significant circumstances to hold the meeting.

6- The Debtor and creditor shall attend the meeting in person or through their representative.

7- The proposed period for the implementation of the Plan may not exceed three years from the date of its approval by the Court. Said period may be extended subject to the approval of a majority of creditors who own two-thirds of the debts that have not been paid in accordance with the Plan.

#### **Article 14- Replacement of Securities**

1- The Expert may offer an alternative security to any secured creditor, provided that it is in the best interest of the Plan's implementation and that the value of the alternative security is not less than the value of the secured debt.

2- If the secured creditor does not accept the proposed offer, the Expert may refer the matter to the Court. The Court may order the replacement of the security if it is in the best interest of the Plan's implementation and does not prejudice the interest of the secured creditor.

#### **Article 15- Voting on the Plan**

1- The creditors' meeting provided for in clause (3) of Article (13) of this Decree-Law shall not be valid unless attended by a numerical majority exceeding half of the total creditors, provided that they represent at least two thirds of the total verified debts.

2- If the quorum is not met at the first meeting, the creditors shall be invited to a second meeting within ten (10) working days from the date of the first meeting. The meeting shall be valid regardless of the number of creditors present, provided that the attendees represent at least two thirds of the total debts; otherwise, the Expert shall refer the matter to the Court so as to determine the possibility of terminating the Debtor's financial settlement proceeding.

3- The right to vote shall be restricted to creditors whose claims have been accepted by the Court, and the other creditors may not vote unless authorised by the Court.

**Article 16- Persons not Entitled to Vote**

1- The following persons shall not participate in the creditors' meeting or vote therein:

- a- The Debtor's spouse.
- b- Any person financially supported by the Debtor.
- c- Relatives of the Debtor up to the second degree.

2- The Expert shall administer the creditors' meeting and verify during such meeting the eligibility of those entitled to vote.

**Article 17- Amendment of the Plan**

1- The Debtor or any creditor may propose any amendments to the Plan during the meeting, and creditors shall vote at the meeting on any amendments to the Plan.

2- The Expert may convene a second creditors' meeting to vote on the proposed amendments.

**Article 18- Approval of the Plan**

1- The Plan shall be approved by a majority vote of the creditors present and whose debts are not less than two thirds of the value of the debts verified.

2- The Expert shall grant creditors who have not approved the Plan, abstained from voting thereon or failed to participate therein, a deadline not exceeding fifteen (15) working days from the date of ratification of the Plan, to join such Plan.

3- A creditor who has not attended meetings scheduled to vote on the Plan shall be deemed as having approved said Plan if he has provided the Expert with his claims and included the same without change in the Plan before the meeting.

4- If the Debtor agrees with a creditor to grant him special privileges in exchange for voting on the Plan and in such a manner as to prejudice the rest of the creditors, the Court may cancel this agreement on its own initiative or at the request of a creditor.

**Rule 19- Extension of Voting Period**

The Court may, at the request of the Expert, in the absence of the required approval of the Plan, grant the Debtor a period not exceeding ten (10) working days to set a new date for voting on the Plan or amend the same so as to present it to creditors.

**Article 20- Approval of the Plan**

1- The Court shall verify that the Plan ensures that all creditors affected thereby receive at least the amount they would have received if the Debtor's Funds had been liquidated on the date of voting on the Plan, at the discretion of the Court.

2- The Court shall issue a decision approving the Plan if all the conditions set forth in the preceding articles are met. Said decision shall be binding on all creditors.

3- If the Court decides to refuse to approve the Plan, it shall rule to commence the Insolvency and liquidation proceedings in accordance with the provisions of Book 3 of this Decree-Law.



4- Within five (5) working days following the decision of the Court to approve or reject the Plan, the Expert shall notify creditors of the Court's decision.

### **Chapter 3**

#### **Implementation of the Plan**

##### **Article 21- Management of the Implementation of the Plan**

1- The Expert shall act as supervisor of the Plan for the duration of its implementation. He shall follow up its implementation and inform the Court of any failure to implement it. He may access any data necessary to carry out his duties

2- The Expert's appointment shall not affect the Debtor's ability to conduct his business directly, during the implementation of the Plan for the settlement of financial obligations, nor shall it relieve him of any legal or contractual obligations arising from the conduct of his business.

##### **Article 22- Sale of the Debtor's Property**

The Expert shall sell the Debtor's property decided to be sold in accordance with the implementation of the Plan at the best price obtained under the prevailing circumstances in the market on the date of sale. The proceeds of the sale or any income arising from the implementation of the Plan shall be deposited in the Court's treasury.

##### **Article 23- Report of the Implementation of the Plan**

1- The Expert shall prepare a report on the progress of the implementation of the Plan, every three (3) months and shall submit a copy thereof to the Court. Any creditor may obtain a copy of the report.

2- The proceedings for the settlement of financial obligations shall be confidential. No person who has participated in the settlement of financial obligations or is aware thereof by virtue of his profession or function, shall disclose such proceedings to third parties except in accordance with the legislation in force.

##### **Article 24- Amendment to the Plan after the Commencement of its Implementation**

If the Expert finds it necessary to make amendments to the Plan during its implementation phase and such amendments would cause a change in the rights or obligations of any party thereto, he shall request the Court to approve such amendments. Before deciding on the application, the Court shall notify all creditors who may be affected by such amendments and any creditors it deems necessary to notify, within five (5) working days from the date of submission of the Expert's request, in order to make any observations on the required amendments, and that, within ten (10) working days from the date of the notification. The Court may issue a decision approving the amendment in whole or in part or rejecting the same, taking into account the interest of creditors.

### **Chapter 4**

#### **Termination, Expiry and Nullity of the Financial Settlement Proceedings Plan**

### **Article 25- Termination and Expiry of Settlement Proceedings**

1- The Court shall decide to terminate the Debtor's financial settlement proceedings in any of the following cases:

a- If the Court finds that the Debtor's financial obligations cannot be settled.

b- If the implementation of the Plan is impossible due to the Debtor's Cessation of Payment of any of his debts on the maturity date thereof, for more than fifty (50) consecutive working days as a result of his inability to pay these debts.

c- If the Debtor requests the Court to terminate the implementation of the Plan before the settlement of the financial obligations with the creditors.

d- If the period specified for the implementation of the Plan expires without being able to complete the settlement of the financial obligations of the Debtor.

e- If the Debtor fails to implement the Plan.

2- If all the obligations provided for in the Plan are fulfilled, the Court shall, at the request of the Expert, the Debtor or any of the creditors, issue a decision on the completion of the implementation of the Plan, and such decision shall be published in two widely circulated local daily newspapers, one in Arabic and the other in English.

### **Article 26- Nullity of the Plan**

1- The Court shall issue a decision to invalidate the approved Plan if it finds that the Debtor has evaded or attempted to evade the fulfilment of his obligations, such as concealing or destroying any part of his funds, or submitting false statements as to his debts, rights, or funds or disposing of any of his rights or funds.

2- Any Interested Party may file a nullity claim in accordance with the provisions of clause (1) of this article, within six (6) months from the date of discovery of the act. In all cases, the lawsuit shall not be accepted if it is filed after two (2) years from the date of the Court's decision to approve the Plan.

3- If the Court rules the nullity of the Plan, any guarantor who guaranteed the implementation of the Plan shall be discharged. Creditors shall not be obliged to return any amounts received from the Debtor in return for debts owed thereto before the plan being ruled null.

### **Article 27- Effect of the Plan Nullity**

In its decision to nullify or terminate the Plan in accordance with the provisions of clause (1) of Article (25) and Article (26) of this Decree-Law, the Court shall rule to commence the Insolvency and liquidation proceedings, in accordance with the provisions of Book 3 of this Decree-Law, if it is proved that this has resulted in the Debtor's failure to pay the debts due on the date of the decision nullifying or terminating the Plan, for more than forty (40) consecutive working days due to his inability to pay those debts.

### **Book 3**

#### **Debtor's Insolvency and Liquidation of his Funds**

##### **Chapter 1**

##### **Commencement of the Insolvency Proceedings**

###### **Article 28- Debtor's Submission of Application**

1- The Debtor shall submit to the Court an application for the opening of Insolvency and liquidation proceedings in the event that he ceases to pay any of his debts on their maturity dates for more than fifty (50) consecutive working days as a result of his inability to pay such debts.

2- The amount of indebtedness obliging the Debtor to submit the application referred to in clause (1) of this article shall be determined by a Cabinet Decision upon the Minister's proposal.

3- The Debtor shall attach to the application all the documents referred to in Article (3) of this Decree-Law.

###### **Article 29- Creditor's Right to Submit the Application**

1- The Debtor's creditor or a group of creditors with an amount of not less than two hundred thousand (200,000) dirhams may apply to the Court for the opening of the Insolvency and liquidation proceedings, in accordance with the provisions of this Book, if the creditor has previously served the Debtor with a notice to pay the due debt and the Debtor has failed to pay the same during fifty (50) consecutive working days from the notice date.

2- The application for opening the Insolvency and liquidation proceedings shall be submitted by the creditor to the Court, together with the following documents:

a- Documents proving the indebtedness, with an indication as to the amount of the debt, the maturity dates thereof and any securities relating thereto, if any.

b- A copy of the notice referred to in clause (1) of this article.

c- The creditor's nomination of a Trustee to undertake the proceedings in accordance with the provisions of this Decree-Law.

###### **Article 30- Amendment of Financial Values and Periods**

The Council of Ministers may, upon the recommendation of the Minister, issue a decision to amend the financial values and periods referred to in Articles (28) and (29) of this Decree-Law.

###### **Article 31- Payment of Fees and Expenses**

1- Subject to the provisions of Articles (28) and (29) of this Decree-Law, the applicant shall pay the judicial fees.

2- The Court shall estimate the expertise fees and the expenses expected to be incurred for the Insolvency and liquidation proceedings and notify the Debtor of their estimate within a period not later than the day following the submission of the application.

3- The applicant shall deposit cash or bank guarantee with the Court's treasury on the date determined by the Court to cover the Trustee's fees and the expenses expected to be incurred for the Insolvency and liquidation proceedings.

4- The Court may, at the request of the applicant, postpone the deposit of the amount or the bank guarantee provided for in clause (2) of this article, if the Debtor does not have the necessary funds to cover expenses on the date of the application, provided they be paid in preference to all creditors from the first amounts entering into the Debtor's Funds.

5- If the Court decides to commence the Insolvency and liquidation proceedings, during the settlement of the financial obligations, it may decide to deposit an additional cash or bank guarantee to cover the Trustee's fees and expenses.

## **Chapter 2**

### **Appointment of the Trustee and Exercise of his Functions**

#### **Article 32- Appointment of the Trustee**

1- If the Court decides to open the Insolvency and liquidation proceedings, the Court shall appoint a Trustee to undertake such proceedings.

2- If the Debtor has previously been subject to the proceedings for the settlement of financial obligations, the Court may appoint the Expert assigned in accordance with the provisions of Article (8) of this Decree-Law as an Insolvency Trustee.

#### **Article 33- Publication of the Appointment Decision**

The Trustee shall, within five (5) working days from the date of the Court's decision to open the Insolvency and liquidation proceedings, publish the Court's decision in two widely circulated local daily newspapers, one publishing in Arabic and the other in English.

#### **Article 34- Submission and Audit of Claims**

1- The Trustee shall require creditors to submit their claims within twenty (20) working days from the date of publication of the Court's decision in the two newspapers. Any claims filed after this date shall be disregarded, unless an excuse accepted by the Trustee.

2- The Trustee shall undertake the final audit of the creditors' claims and prepare a report on the Debtor's financial position and submit the same to the Court within ten (10) working days from the date of the end of the period specified in clause (1) of this article. The Court may extend such period for a similar period and for one time.

3- If the value of the claims is determined in a foreign currency, it shall be converted into the national currency at the Exchange Rate on the date of the decision to open the Insolvency proceedings, unless the creditor and the Debtor agree otherwise.

4- At the request of the Trustee, the Court may assist him in the performance of his task, including the disbursement of funds to cover expenses necessary for the conduct of the proceedings.

### **Article 35- Acceptance of Claims and Granting of Deadlines**

1- Upon review of the report submitted by the Trustee, the Court shall determine the claims it accepts and approves.

2- The Court shall decide on the Debtor's Insolvency and liquidation of his assets within fifteen (15) days from the date of receipt of the report of the Trustee.

3- Upon the commencement of the liquidation of the Debtor's Funds, the Court may, upon the recommendation of the Trustee and at the request of the Debtor, decide to grant the Debtor a deadline not exceeding three (3) months, extendable for a similar period to reach an amicable settlement with his creditors, provided that this does not prejudice the interest of creditors.

4- Any of the creditors may challenge the Court's decision granting the debtor a deadline for amicable settlement before the Court of Appeal. The appeal shall not result in the stay of the proceedings. The decision issued in the appeal shall be final.

5- If the Court decides to open the Insolvency and liquidation proceedings, all the Debtor's debts, whether ordinary or secured or preferential, shall become payable.

## **Chapter 3**

### **Liquidation of Funds**

#### **Article 36- Management of Liquidation Proceedings**

1- If the decision of the Court to open Insolvency and liquidation proceedings is issued, the Trustee shall liquidate all Debtor's Funds, except those that the Debtor may keep in accordance with the provisions of this Decree-Law.

2- The Debtor shall disclose any property acquired thereby or devolving thereto for any reason after the Court's decision to open the Insolvency and liquidation proceedings, and the Trustee shall add the same to the Debtor's Funds subject to liquidation.

3- Subject to clause (2) of this article, the Trustee shall, unless the Court decides otherwise, take legal or judicial action to claim any property in the Debtor's financial liability.

4- The Trustee may authorise the Debtor to achieve or complete any of his works or activities with a view to selling his property at the best possible price, provided that the period of such authorisation does not exceed six (6) months. The Trustee may extend such period for a term not exceeding two (2) months, if such continuation serves the interests of the creditors.

5- The Court shall, at the request of the Debtor or the Trustee, authorise the Debtor to retain any of its property if the Court considers that such funds are necessary to enable the Debtor to pursue his occupation, profession or craft.

6- The Trustee shall sell the Debtor's property in a public auction, with the approval of the Court and under its supervision and control.

7- The Court may authorise the Trustee to sell some or all of the Debtor's assets other than by public auction in accordance with the conditions specified by it.

8- The Trustee shall use the proceeds of the liquidation of the Debtor's Funds to settle any claims against the Debtor under the supervision of the Court, and any excess shall be refunded to the Debtor.

9- The proceeds of sale shall be distributed to creditors in accordance with the priority specified in Article (42) of this Decree-Law. Where a creditor has a security over an asset sold, the Trustee shall distribute the proceeds of sale thereof to creditors, as per their order of preference.

#### **Article 37- Request for Information**

The Trustee may request any person with information relating to Insolvency and liquidation proceedings, including the spouse of the current or former Debtor, or any person who holds the property or funds owned by the Debtor or any person owing funds to the Debtor, to provide such information. Also, he may instruct such person to determine the funds owed to the debtor.

#### **Article 38- Right of Recovery**

1- Subject to the provisions of Article (8) of this Decree-Law, the Expert shall ensure that the decision to open the proceedings, includes an invitation to any Interested Person having a right in any of the Debtor's Funds, to apply for the recovery of movable or immovable property owned thereby from among the Debtor's Funds. The application shall be submitted within two months from the date of publication of the decision and shall state the type and nature of the specifications of such funds and the nature of the right attached thereto.

2- The Expert may, upon a Court order, return the funds in the possession of the Debtor to their owners after verification of their ownership thereof.

#### **Article 39- Funds Excluded from Liquidation Proceedings**

The following funds shall not be included in the Debtor's Funds subject to Insolvency or liquidation proceedings:

1- Pension or social benefit provided to the Debtor.

2- The Debtor's Funds prescribed by the Court to meet the necessary needs of the Debtor and his dependents. The Court's decision may be challenged within five (5) working days from the date of its issuance. The Court shall decide on the objection within five (5) working days and its decision shall not be subject to challenge in any methods of appeal.

#### **Article 40- Sale of the Debtor's Place of Residence**

Without prejudice to the legislation in force in the State, the Trustee may apply to the Court after the judgment of the Debtor's Insolvency and the liquidation of his funds, seeking the issuance of a decision to sell the house wherein the Debtor resides, and which may be disposed of by law. Upon hearing the application, the Court shall take the following into consideration:

- 1- The interest of the Debtor's creditors.
- 2- If the Debtor has another place suitable for housing.
- 3- The number of family members of the Debtor living with him and depending thereon.
- 4- The adequacy of the price derived from the sale of the Debtor's house for the purchase of a house suitable for the Debtor's housing with his dependents, in accordance with the prevailing social conditions at the time of publication of the decision of his Insolvency and liquidation of his funds.
- 5- Any other humanitarian or social aspects related to the Debtor.
- 6- Absence of legal or regulatory obstacle to the disposition of the Debtor's place of residence.

**Article 41- Persons Prohibited from Purchasing the Debtor's Funds**

- 1- The Debtor may not directly or through an agent buy or make an offer to buy all or part of the Debtor's Funds offered for sale.
- 2- The following persons may purchase the Debtor's Funds only with the consent of the Court if it is in the interest of the creditors:
  - a- The Debtor's spouse, or a relative, by birth or kinship until the second degree.
  - b- Any other person who, during the two years preceding the date of the issuance of the decision to open the proceedings of Insolvency and liquidation of funds, was a partner, employee, accountant or agent of the Debtor.

**Article 42- Priority of the Debtor's Funds**

- 1- The Trustee shall, upon the approval of the Court, distribute the proceeds of liquidation as per the priority order, provided that the secured creditors take precedence over other preferential or ordinary creditors, to the extent of their collateral.
- 2- The following categories of debt shall be deemed preferential debts and shall have priority over ordinary debts.
  - a- Fees and judicial expenses, and the fees and expenses of the Expert and the Trustee.
  - b- Expenses disbursed by a Court order to serve the creditors' common interest in the preservation and liquidation of the Debtor's Funds.
  - c- End-of-service gratuity and wages owed to the Debtor's workers and employees.
  - d- Alimony and maintenance imposed on the Debtor by an order issued by a competent court.
  - e- Amounts due to government agencies.

**Article 43- Distribution of the Sale Proceeds of the Debtor's Funds**

- 1- The Trustee may distribute the liquidation revenues after each sale or after accumulating the funds resulting from the total sale operations in accordance with the provisions of Article (42) of this Decree-Law.
- 2- The Trustee shall, after each sale, submit a distribution list to the Court for approval.

3- The creditor shall receive his share of the distribution proceeds at the place where the Trustee performs his functions, unless otherwise agreed between the Trustee and the creditor.

4- The shares of debts that have not been finally accepted and those which are subject to objection in accordance with the provisions of this Decree-Law shall be set aside and kept at the Court's treasury until a final judgment is issued thereon.

5- The secured creditor shall be paid the sale proceeds of the funds securing its debt; if the value of the secured assets is insufficient to pay off the entire secured or preferential debt, the remaining outstanding debt shall be deemed to be the ordinary debt.

6- The Trustee shall deliver to the Debtor any surplus amounts upon liquidation after fulfilling all his obligations.

7- If one of the creditors refuses to receive his debt, is absent or his residence is unknown, the debt shall be deposited at the Court's treasury and the deposit receipt shall be deemed as a clearance.

#### **Article 44- Procedures in Special Cases**

1- If the Debtor obstructs the Insolvency and the liquidation proceedings in such a way as to prevent the Trustee from performing his duties in accordance with the provisions of this Decree-Law, the Trustee may request the Court to issue an order on a petition to take any appropriate action against the Debtor.

2- If, after the issuance of the Insolvency and liquidation judgment, the Court determines that any of the Debtor's Funds are not disclosed, it may include such funds in the Debtor's Funds under liquidation.

#### **Article 45- Determination of the Liquidation Proceedings Progress**

The Trustee shall notify the Court and the Debtor every month of the progress of the Insolvency and liquidation proceedings.

### **Chapter 4**

#### **End of Insolvency and Liquidation Proceedings**

#### **Article 46- Closure of Insolvency and Liquidation Procedures**

1- After the final distribution of the Debtor's Funds to creditors, the Court shall issue a decision to close all liquidation procedures; said decision shall include a list of the names of creditors whose debts are accepted, the amount thereof and the sums paid off. The Court shall instruct the Trustee to publish that decision in two widely circulated local daily newspapers, one in Arabic and the other in English.

2- The Trustee shall return all documents in his possession to the Debtor after the completion of the proceedings and the performance of his duties.



3- The Court may, at any time after the issuance of the decision to open the Insolvency proceedings and at the request of the Debtor or the Trustee, issue a judgment on the completion of the Insolvency and liquidation proceedings if it finds that:

a- the reasons for the opening of the Insolvency proceedings have ceased to exist;

b- the proceeds of the Debtor's Funds are sufficient to pay off the creditors' rights.

All Insolvency effects provided for in this Decree-Law shall be eliminated accordingly.

4- After the issuance of the decision to close the Insolvency and liquidation proceedings, any creditor whose debt has been accepted by the Court and whose debt has not been fully paid, shall have the right to execute against the Debtor's Funds to obtain the remainder of his debt. The acceptance of the debt referred to in Article (35) of this Decree-Law shall be deemed as a final judgment in relation to said execution.

5- If the proceeds of the Debtor's Funds are insufficient to pay the rights of the creditors, the Court shall issue a judgment declaring the Insolvency of the Debtor and the end of the Insolvency and liquidation proceedings.

## **Chapter 5**

### **Taking Measures Against the Debtor**

#### **Article 47**

The Court may take the necessary measures against the Debtor if he commits or attempts to commit any of the following acts:

1- Fleeing outside the State to avoid or delay payment of any of its debts, or to avoid, defer or disable proceedings of his Insolvency or liquidation of his funds.

2- Disposing of any of his funds with a view to preventing the Trustee from acquiring or delaying his possession thereof.

3- Concealing or destroying any of his funds, documents, or other relevant information that creditors may benefit from.

4- Transferring ownership of any property exceeding five thousand (5,000) dirhams in his possession, without the approval of the Trustee.

5- Failing to appear before the Court after being summoned or failing to implement its decisions without an acceptable excuse.

## **Chapter 6**

### **Insolvency of the Estate of the Deceased Debtor**

#### **Article 48**

The proceedings for the declaration of the Debtor's Insolvency and liquidation of his funds provided for in this Decree-Law shall apply to the deceased debtor, taking into account the following:

1- An application for the declaration of the Debtor's Insolvency shall be announced in the event of the death of the Debtor in his last domicile without the need to appoint the heirs.

2- The heirs of the insolvent Debtor shall take his place in the Insolvency and liquidation proceedings to the extent of the estate.

#### **Article 49**

The Trustee shall notify the heirs of the deceased Debtor to appoint their representative in the Insolvency and liquidation proceedings. If they do not agree on a representative within ten (10) working days from the date of their notification, the Court shall, upon the request of the Trustee, assign any of them or any other person to this effect. The Court may dismiss the representative of the heirs and appoint another.

### **Chapter 7**

#### **Effects of Insolvency**

##### **Article 50- Debtor's Acts after Opening the Proceedings**

The Court's decision to open the Insolvency and liquidation proceedings shall result in the following:

1- The maturity of the Debtor's Debts.

2- Unless the Court decides otherwise, the Debtor's disposition of his funds shall not be enforceable, whether with or without compensation, unless the Court decides otherwise. The Court may order a third party to return any amount to the Debtor or any other matter it deems appropriate to preserve the rights of creditors. In all cases, the Court shall hear statements of the parties to the disposition, before deciding on the validity or nullity of the disposition.

3- The Debtor's acknowledgment of any debt shall not be enforceable against his creditors.

4- The Debtor shall be prohibited from managing his business and disposing of his funds and property. From the date of the opening of the proceedings, the Debtor may not make any payments in excess of AED 5,000 without the approval of the Trustee.

5- The Debtor shall not be prohibited from disposing of his funds in respect of the cost of his living or his dependents as determined by the Court or from paying by set-off to meet mutual obligations arising prior to the decision to open the Insolvency and liquidation proceedings, unless the Court decides otherwise.

6- The Debtor may not provide any personal guarantees or collaterals on any of his funds, except with the prior consent of the Court.

##### **Article 51- Stay of Proceedings**

1- During Insolvency and liquidation proceedings, no lawsuits or legal or judicial proceedings against the Debtor may be instituted or pursued in cases other than those authorised by the Decree-Law.

2- The Court's decision to open Insolvency and liquidation proceedings shall result in the stay of all judicial execution proceedings against the Debtor's Funds.

3- Notwithstanding the provisions of clauses (1) and (2) of this Article, secured or preferential creditors shall have the right to execute against their collateral when their debts are due after obtaining the Court's permission. The Court shall decide on granting the authorisation within ten (10) working days from the date of requesting the authorisation. A decision on a request for authorisation does not require memorandum be served or exchanged.

4- The Court's decision to deny authorisation may be appealed before the Court of Appeal. The appeal shall not result in the stay of the Insolvency and liquidation proceedings. The decision issued in the appeal shall be final.

#### **Article 52- Interests and Securities Provided**

The issuance of the decision to open Insolvency and liquidation proceedings shall result in the following:

1- Stay of legal or contractual interest on the Debtor, including accrued interest or compensation due for late payment.

2- Stay of any judicial action against any person who has granted a personal security to the Debtor, or who has transferred his funds to secure the Debtor's obligations, pending a judgment to liquidate the Debtor's Funds within the limits of that security.

#### **Article 53- Entry into Force of Contracts**

1- A decision to open Insolvency and liquidation proceedings shall not result in the termination or rescission of any contract in force between the Debtor and third parties. The party contracting with the Debtor shall fulfil its contractual obligations unless the creditor has pleaded non-execution, before the date of the Court's decision to open the Insolvency proceedings or requested the rescission of the contract due to the Debtor's failure to fulfil his obligations, or the Trustee finds that the Debtor is unable to fulfil his mutual obligations set forth in the contract. In such case, the Court may, at the request of the Trustee or any other Interested Person, issue a decision to terminate the contract if necessary to protect the Debtor's Funds or this is in the interest of all creditors and does not prejudice the interests of the party contracting with the Debtor.

2- The Trustee, upon requesting the execution of any contract, shall ensure that the Debtor has the funds necessary to fulfil his obligations under that contract and to pay any amount due by the Debtor to the contracting party under an enforceable contract, unless the contracting party grants the Debtor a payment term.

#### **Article 54- Prohibitions and Registration**

Subject to the provisions of Article (50) of this Decree-Law, the judgment declaring the Debtor's Insolvency and liquidation of his funds shall result in the following:

1- Preventing the Debtor from obtaining a new loan or financing for a period of three (3) years from the date of the judgment declaring his Insolvency.

2- Preventing the Debtor from entering into obligations, with or without compensation, except as may be necessary to satisfy his essential needs or those of his dependents for a period of three (3) years from the date of issuance of the Debtor's Insolvency and liquidation of his funds, unless the Court authorises him to do so under an order on a petition submitted by the Debtor.

3- Recording the names of Debtors against whom a Court decision declaring their Insolvency and liquidation of funds has been issued in the special register. The form of the register, the data to be included therein, the competent authority to organise it, and other relevant terms and conditions shall be determined by a Cabinet decision.

## **Chapter 8**

### **Rehabilitation of Insolvent Debtor**

#### **Article 55- Lapse of Time**

Unless the provisions of this Chapter provide otherwise, the rights of which the Debtor has been deprived in accordance with the provisions of this Decree-Law, shall be recovered upon fulfilment of any of the following:

1- The lapse of three years from the date of completion of the proceedings for declaring the Debtor's Insolvency and liquidation of his funds.

2- The lapse of two years from the date of completion of the proceedings for declaring the Debtor's Insolvency and liquidation of his funds if he has paid 50% of his debts.

3- The lapse of one year from the date of completion of the proceedings for declaring the Debtor's Insolvency and liquidation of his funds if he has paid 75% of the debts.

#### **Article 56- Rehabilitation due to the Debt Payment**

The Debtor declared insolvent shall be rehabilitated, even if the period stipulated in Article (55) of this Decree-Law has not lapsed, if he has paid off all his debts previously accepted by the Court, prior to the decision to declare the Insolvency and liquidation.

#### **Article 57- Settlement and Discharge**

The insolvent Debtor may be rehabilitated, even if the period provided for in Article (55) of this Decree-Law has not lapsed in the following two cases:

1- If he reaches a settlement with all his creditors and implements it.

2- If he proves that the creditors have discharged him from all remaining debts after the Court's decision declaring Insolvency and liquidation.

#### **Article 58- Rehabilitation of the Deceased Debtor**

The insolvent debtor shall be rehabilitated after his death at the request of the heirs. The periods provided for in Article (55) of this Decree-Law shall be calculated as of the date of the judgment of declaration of Insolvency and liquidation.

#### **Article 59- Application for Rehabilitation**

An application for rehabilitation shall be submitted with the supporting documents to the Court which issued the Insolvency and liquidation judgment. The Court shall notify creditors whose debts have been accepted of the application for rehabilitation.

#### **Article 60- Objection to the Application for Rehabilitation**

1- Any creditor whose debts have been accepted by the Court and whose right has not been paid, may file an objection to the application for rehabilitation within fifteen (15) working days from the date of its notification. The objection shall be made by virtue of an application to be filed with the Court together with the supporting documents.

2- After the expiry of the period provided for in clause (1) of this article, the Court shall notify the creditors who have filed objections to the application for rehabilitation of the date of the session set for hearing the application.

3- The Court shall decide on the application for rehabilitation by a judgment which may be challenged before the Court of Appeal.

4- If the application for rehabilitation is rejected, it may not be resubmitted until six months have elapsed from the date of its rejection.

### **Book 4**

#### **Provisions relating to the Expert and the Trustee**

#### **Article 61- Replacement**

1- The Court may not at any time replace an Expert or a Trustee or appoint additional Experts or Trustees.

2- The Court may replace the Expert or the Trustee upon the request of the creditor or the Debtor if it is proved that the continuation of his appointment may be detrimental to the interests of the creditors or the Debtor. Such request shall not result in the stay of the proceedings.

3- The Expert or the Trustee may request the Court to relieve him of his duties. The Court may appoint a replacement and shall specify to the Expert or Trustee who has been relieved the fees for the services rendered.

4- The appointment of the replacement Expert or Trustee shall be in the same appointment procedures prescribed by the provisions of this Decree-Law. Within five (5) working days from the date of notification of the appointment decision, the summary of the appointment decision shall be published in two widely circulated local daily newspapers, one in Arabic and the other in English. The

replacement Expert or Trustee shall cooperate to the extent necessary to enable the alternative Expert or Trustee to assume his functions.

5- The Court may evaluate the stage of the proceedings at the time of replacement of the Expert or Trustee and may grant the new Expert or Trustee sufficient time before completing the proceedings.

#### **Article 62- Fees**

The Court shall determine the fees of the Expert or Trustee who has been appointed and said fees shall be paid from the amounts or bank guarantee deposited in the Court's treasury. If these amounts or bank guarantee are not sufficient to pay all the fees, the remaining amounts shall be paid in accordance with the provisions of Article (42) of this Decree-Law.

#### **Article 63- Collection of Fees**

1- The Expert or Trustee shall collect his fees and expenses incurred from the Debtor's Funds. A payment of such fees and expenses may be disbursed by a Court decision.

2- If the Debtor's Funds are insufficient to pay the fees and expenses, the Expert or Trustee may apply to the Court for payment of his dues from the Court's treasury. Any dues paid from the Court's treasury shall be recovered in preference to all creditors from the first amounts entering into the Debtor's Funds.

3- Any Interested Party may file a grievance before the Court regarding the assessment of the fees and expenses of the Expert or Trustee. The grievance shall not result in the stay of the proceedings. The Court shall decide on the grievance within five (5) working days from the date of its submission. Its decision in this regard shall not be subject to any methods of appeal.

### **Book 5**

#### **Penalties**

#### **Article 64**

The penalties provided for in this Decree-Law shall not prejudice any more severe penalty provided for in any other law.

#### **Article 65**

Any creditor who commits any of the following acts shall be punished by imprisonment and a fine of not less than ten thousand (10,000) dirhams and not exceeding one hundred thousand (100,000) dirhams or either of them:

- 1- If he makes a claim relating to a fictitious or simulated debt against the Debtor.
- 2- If he illegally imposes additional debts on the Debtor.
- 3- If, at any meetings, he votes on decisions relating to the settlement of the Debtor's financial obligations knowing that he is legally prohibited from doing so.

4- If he knowingly concludes with the Debtor, after the Court's decision to commence the Insolvency and liquidation proceeding, a special agreement granting him special benefits to the detriment of the rest of the creditors.

#### **Article 66**

A penalty of imprisonment for a period not exceeding two years and a fine of not less than twenty thousand (20,000) dirhams and not exceeding sixty thousand (60,000) dirhams or either of them shall be imposed on anyone who was declared insolvent and it is proved that such insolvency declaration has caused a loss to his creditors, as a result of the following acts:

1- Spending large sums in Mudaraba although not required by his usual business, or in the purchase of services, goods or materials for personal or domestic use, that are not commensurate with his distressed financial situation, or in gambling, knowing that his creditors may be harmed.

2- Paying the debts of one of the creditors to the detriment of to the remaining creditors within six (6) months prior to the submission of his application for settlement of his obligations or the declaration of his Insolvency.

3- Disposing of his funds in bad faith for a price less than the market price or resorting to harmful means, to prejudice creditors with a view to delay the declaration of his Insolvency and liquidation of his funds.

4- Paying any debts or disposing of any funds knowing that such acts violate the terms of the Plan.

### **Book 6**

#### **Final Provisions**

#### **Article 67**

1- If the Court decides to open the proceedings for the settlement of financial obligations or the Insolvency and liquidation proceedings, it shall order on its own initiative or at the request of the Debtor, to stay any criminal lawsuit if it has arisen from a cheque without sufficient balance issued by the Debtor before requesting the opening of proceedings for the settlement of financial obligations or the Insolvency and liquidation proceedings.

2- If the Court decides to stay the criminal case in accordance with the provisions of clause (1) of this article, the stay shall continue until the settlement of the financial obligations, or the issuance of the Court's decision to declare the Insolvency of the Debtor, as the case may be. The creditor for whom the cheque without sufficient balance has been issued shall be deemed one of the creditors and his debt becomes part of the total debt of the Debtor.

3- If the Debtor obtains a Court decision to settle his obligation against the creditor payee, during any stage of the proceedings for settlement of financial obligations or the Insolvency and liquidation proceedings, the Debtor may request the competent court to hear the criminal case in accordance

with the provisions of Article (401) of the Penal Code, to issue a decision to terminate the criminal case or stay its execution, as the case may be.

**Article 68**

No judgment or decision issued by the Court may be challenged during the proceedings for the settlement of financial obligations or the Insolvency and liquidation proceedings, except in cases expressly provided for in this Decree-Law.

**Article 69**

Any provision that contravenes or contradicts the provisions of this Decree-Law shall be abrogated.

**Article 70- Publication and Entry into Force of the Decree-Law**

This Decree-Law shall be published in the Official Gazette and shall come into force three months after its publication.

Issued by us at the Presidential

:Palace in Abu Dhabi

.On 28 Dhu Al-Hijjah 1440H

Corresponding to 29 August 2019

**Khalifa bin Zayed Al Nahyan**

**President of the United Arab Emirates**

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