

**Decree no. 4.070 of 1915  
of the Hungarian Royal Government  
on the procedure on the compulsory non-bankruptcy settlement**

The Hungarian Royal Government authorised by Section 16 of Act LXIII of 1912 on the exceptional measures in case of war and Section 14 of Act L of 1914 amending the aforementioned act and supplementing Act LXVIII of 1912, orders the following:

**CHAPTER I  
Initiation of the proceeding**

**1. §**

The debtor may request the initiation of compulsory non-bankruptcy proceeding (joint proceeding) by declaring that his debts exceed his assets or are otherwise insolvent, or, in case of a trader or commercial company, by declaring that he has terminated his payments. (...)

[tags: initiation of the settlement proceeding, a debtor, a trader, a commercial company]

**2. §**

The royal regional court that would have jurisdiction to open bankruptcy has jurisdiction over the settlement proceedings.

In settlement proceedings, a single judge shall proceed at the royal regional court. The court shall examine its jurisdiction ex officio until first-instance decision on the approval of the agreement or the termination of the procedure.

[tags: jurisdiction, a court of law, composition of court, examination of jurisdiction]

**3. §**

The procedure shall be initiated with a request. The request shall be submitted in that many copies that both the court and all known creditors may receive a copy. (...)

[tags: initiation of settlement proceeding, the form of initiation of the proceeding]

**4. §**

The debtor shall submit his offer of settlement with the request.

The request shall be accompanied by a list of creditors and a provisional balance sheet showing at least the balance between the assets and the debts. The debtor's real estate and land registry rights shall also be indicated with the land registry data relating to them (Section 13). The list of creditors shall contain all debts – indicating the place of residence of each creditor and, if the creditor is a relative or brother-in-law of the debtor, this relationship. (...)

The original copy of the settlement offer, the list of creditors and the provisional balance sheet shall be signed by the debtor. If other persons declare their willingness to take responsibility for the obligations of the debtor, this declaration shall be attached to the request accompanied by a certification of a judge or notary.

At the request of the debtor, the judge may grant him a maximum of 15 days to defer the submission of annexes and the rectification of remediable deficiencies.

[tags: initiation of settlement proceeding, a debtor, the form of initiation of the proceeding, a list of creditors, a settlement offer, a provisional balance sheet]

## 5. §

The debtor may not withdraw the settlement offer and may not modify it to the detriment of the creditors without the consent of all creditors entitled to vote.

The same applies to a person who has declared his willingness to take responsibility for the obligations of the debtor.

The judge shall order the debtor who has manifestly made an unfounded request to initiate the proceeding to reimburse any costs incurred by any interested party. The debtor shall be heard in advance.

[tags: unfounded initiation of settlement proceeding, a debtor, a settlement offer, a withdrawal of the settlement offer]

## 6. §

The Minister of Justice, in agreement with the Minister for Trade, may lay down by general decree the minimum amount to be paid for the settlement of debts and the maximum time limit for the settlement of debts, in addition to which a settlement procedure may be offered.

In the event of the issue of such a degree, the procedure may not be initiated if the settlement offer does not comply with the requirements laid down in this provision.

[tags: initiation of settlement proceeding, a settlement offer]

## 7. §

If the application complies with the prescribed requirements and the deficiencies listed in paragraph 2 do not exist, the judge shall initiate the proceeding and appoint a trustee, otherwise the application shall be rejected ex officio.

The proceeding shall not be initiated:

1. if the debtor has previously been the subject of a settlement proceeding and it was terminated within one year prior to the filing of a new application for one of the reasons mentioned in Section 56 paragraph 1, points 2-6;
2. if the debtor has previously been declared bankrupt and the creditors have not accepted the offer of settlement of the debtor in bankruptcy within the period specified in point 1, or the court has legally refused to approve the settlement.

[tags: initiation of settlement proceeding, a debtor, a trustee]

## 8. §

A trustee being appointed shall be a person with sufficient expertise who does not have a personal relationship with the debtor that could affect the performance of his duties.

Authorities and bodies are required to make an immediate statement of these characteristics to the judge's inquiry.

The details of the appointment may be regulated by a decree of the Minister of Justice in agreement with the Minister for Trade.

The trustee shall make a pledge to perform his duties conscientiously. After the pledge has been lodged, the judge will issue a certificate of appointment to the trustee.

[tags: a trustee, appointment of a trustee, a pledge of a trustee]

## 9. §

After the initiation of the settlement proceeding, the judge shall immediately take all measures necessary to secure the assets of the debtor. In particular, the judge may prohibit the debtor from committing certain actions during the proceeding at all or without the consent of the trustee.

If the debtor fails to comply with the measure taken pursuant to paragraph 1, the judge may terminate the proceeding. If the delay is not dangerous, the judge should hear the debtor and possibly the trustee and creditors before making a decision. The judge may order the debtor to pay in advance all or part of the costs which are foreseeable and necessary for the purpose of the proceeding (Section 56 paragraph 1 point 2). The judge may grant a short adjournment to the debtor at his request.

[tags: initiation of settlement proceeding, securing the assets of a debtor]

## 10. §

The initiation of settlement proceeding shall be published without delay by means of a public notice.

The public notice shall contain in particular:

1. the name and place of residence of the trustee;
2. an invitation to the creditors to file their claims within the time specified in the notice, in the manner prescribed in Section 28 (Section 43 paragraphs 1 and 2);
3. the due date of the hearing on the settlement;
4. an indication of the date on which the legal effects of the proceeding shall begin (Section 16)

The hearing of the settlement shall be set at a maximum of thirty days. For important reasons, the judge may set a time limit at longer intervals.

The hearing shall be adjourned or postponed for important reasons. Section 240 of the Code of Civil Procedure shall not be applied.

[tags: initiation of settlement proceeding, a public notification of settlement proceeding, a hearing of settlement]

## 11. §

The public notice shall be posted on the notice board of the court. If the debtor is domiciled or has its registered office outside the seat of the court, the public notice shall also be posted on the notice board of the district court of those places.

The judge may order the public notice to be posted on a stock exchange or other place where the creditors of the debtor are more likely to turn in business matters.

(...)

[tags: initiation of settlement proceeding, a public notification of settlement proceeding]

## 12. §

The essential content of the public notice (Section 10 paragraph 2) shall be published once in the official gazette.

The judge may order the public notice to be published in its entirety, as well as in other foreign newspapers as well, and several times in the meantime.

(...)

[tags: initiation of settlement proceeding, a public notification of settlement proceeding]

## 14. §

Otherwise provided in this decree, the judge shall act throughout the complete proceeding and shall decide ex officio.

The judge may take evidence and make inquiries to establish the relevant circumstances. In particular, it may order the hearing of the parties concerned and require them to produce the necessary documents and other evidence.

Section 36 of Act XXXVII of Act 1875 shall be applied in this case as well.

Taking the oath of the parties and settlement oaths shall not take place.

[tags: judicial activity during settlement proceeding]

## 15. §

In settlement proceedings, the parties may be heard, in addition to an oral hearing, in the absence of the other persons to be heard and without the taking of minutes; however, in the absence of minutes, the results of the hearing shall be briefly recorded in the records. The person heard shall be given the opportunity to be heard about the submissions of other persons only if necessary (Section 254 of the Code of Civil Procedure).

Section 11 paragraph 6 shall be applied in case of a hearing as well.

Excuses shall not be allowed in settlement proceedings.

(...)

[tags: hearing of a party]

## CHAPTER III

### Trustee, audit commissioner and audit committee

The trustee is obliged to obtain accurate information about the financial situation of the debtor and the continuation of his business, economy or earnings, the reasons for his payment difficulties, the recoverability of his arrears, the adequacy of the offered unity and all circumstances relevant to decisions of the creditors. He is obliged to ensure that the business of the debtor, his economy or earnings of bread can continue as far as possible and to ensure that nothing is deducted from the assets of the debtor. He reviews the list of creditors and the provisional balance sheet submitted by the debtor, contributes to the preparation of the statement of assets and the final balance sheet, verifies their correctness, certifies that all of these have been signed and reports to the judge in writing before the trial.

The trustee is liable to all interested parties for property damage caused by the wrongful removal of his officer.

[tags: a trustee, duties of a trustee, liability of a trustee, a list of creditors, a provisional balance sheet]

## 22. §

If the trustee has reserved the receipt of the money received and the execution of payments, he shall cover the current expenses from the amounts received and shall, in particular, fulfil the obligations listed in Sections 30 and 31 if they have expired; and if they have not yet expired, provide them as far as possible.

The remaining or indispensable amount shall be deposited by a judge without delay or otherwise disposed of with the permission of the judge.

The trustee may make only such current expenses which are necessary for the ordinary continuation of the business, the economy or the earning of bread, or current transactions which are required by Section 17 paragraph 2.

(...)

[tags: a trustee, expenses of a trustee]

## 24. §

In addition to reimbursing the costs, the trustee may charge a fee for his actions.

The judge may instruct the trustee to communicate his fee and expense account at any time.

The fee and costs of the trustee are determined by the judge. The trustee and the debtor may appeal against the decision once.

The agreement reached by the trustee with the debtor or the creditors on the amount of his fee or costs shall be null and void.

The Minister of Justice may, by decree, determine the tariff applicable to the remuneration of the trustee.

[tags: a trustee, expenses of a trustee, a trustee's fee]

## 25. §

The judge may examine the actions, accounts of the trustee and other documents relating to his actions at any time and instruct the trustee to provide a report and information.

If the trustee fails to perform his duties properly, the judge may impose a fine of up to 600 crowns on the performance of his duties and, and, in urgent cases, may entrust another person with certain tasks at the expense of the trustee.

The judge may dismiss the trustee from office ex officio or at the request of any interested party for important reasons. If possible, the trustee shall be heard before a decision is made.

If the size of the business or other important reasons so requires, the judge may appoint an audit commissioner or an audit committee of up to five members from among the interested creditors to accompany the trustee. The recommendation of the creditors should be taken into account as far as possible during the appointment.

The audit commissioner and the audit committee shall fulfil their duties free of charge.

The judge may withdraw the appointment.

[tags: a trustee, actions of a trustee, duties of a trustee, dismissal of a trustee, an audit commissioner, an audit committee, appointment of an audit commissioner or an audit committee, duties of an audit commissioner or an audit committee]

## 27. §

The audit commissioner or the audit committee examines the financial situation of the debtor, the continuation of his business, economy or earnings of bread before the initiation of the proceeding, the statement of assets and the records of the debtor. The judge may also authorise the audit commissioner or the audit committee to audit the trustee. In this case, the trustee may not deviate from the instructions of the audit commissioner or the audit committee.

The audit commissioner or the audit committee shall submit a report on the results of the investigation to the judge within a maximum of 15 days. The judge may grant a short adjournment on request for important reasons.

Section 21 paragraph 2 shall be applied appropriately in this case as well.

The judge may also hear the audit commissioner or the members of the audit committee as experts.

[tags: an audit commissioner, an audit committee, duties of an audit commissioner or an audit committee]

## CHAPTER IV Creditors

Claims must be lodged at to the royal regional court. The lodge shall be made in writing. (...)

The lodges may be inspected by the interested parties.

(...)

[tags: a creditor, claim of a creditor, jurisdiction]

## CHAPTER V Hearing on the settlement

The debtor is obliged to appear in person at the hearing on the settlement, unless his personal appearance is prevented by an important reason.

If the debtor does not appear in person without justification, the judge may terminate the proceeding.

At the request of the debtor, the judge may postpone the hearing for important reasons for a maximum of 15 days so that the debtor can appear in person.

[tags: a debtor, hearing of a debtor]

### 38. §

The debtor is obliged to bring his business (economic) books and other notes necessary for the determination of his financial situation to the hearing on the settlement, to submit the statement of assets and final balance sheet prepared and signed by the trustee and to state the reasons for his payment difficulties.

[tags: a debtor, hearing of a debtor]

### 39. §

At the beginning of the hearing, the trustee and any appointed audit commissioner or a member of the audit committee invited for this purpose shall present the submitted report. The report shall be read at the request of any interested party.

[tags: a debtor, hearing of a debtor, a trustee, an audit commissioner, an audit committee, duties of an audit commissioner or an audit committee]

### 40. §

After making the submissions described in Section 39, the debtor is obliged to take an oath (Section 310 paragraph 4 of the Code of Civil Procedure) that the statement of assets and balance sheet made by him, is correct to the best of his knowledge and conviction, and has not concealed anything from his assets, and has assumed his receivables and debts he did not exclude anyone from the statement of assets, nor did he include anyone who was not a creditor (Section 56 point 4).

The judge may release the obligor from taking the oath for important reasons. The trustee and creditors shall be heard on whether the waiver is granted.

[tags: a debtor, hearing of a debtor, an oath of a debtor]

### 41. §

After the oath has been taken, or after the decision to waive the oath, the judge calls the parties being present to make a statement on the claims declared, the claims of the creditors seeking preferential satisfaction, the voting rights of the creditors, the acceptance of the unity offer and the approval of the unity, and any other submissions on this matter.  
(...)

[tags: a debtor, a creditor, claim of a creditor, hearing of a party, voting rights of a creditor]



## 42. §

A creditor whose rights are not affected by the settlement shall not have the right to vote. A creditor with a special right of satisfaction is entitled to vote only for the part of the claim that is not expected to be covered by the special right of satisfaction.

If the claim of the creditor is secured by a promissory note, a liability of a co-debtor or guarantor, or in another way that does not give a right to separate satisfaction, he has the right to vote only up to the part of the claim that is not expected to be secured.

If the creditor entitled to separate satisfaction waives the right to separate satisfaction or the creditor secured under the preceding paragraph, he shall be deemed to have the same voting rights as the other creditors.

[tags: a creditor, hearing of a party, claim of a creditor, voting rights of a creditor]

## 43. §

A creditor who has not notified his claim in due time shall not be entitled to vote.

A creditor who has failed to make a proper announcement shall also be admitted to the vote if it is immediately probable that his omission is innocent.

Creditors who do not reside at the seat of the court may also vote by submitting a written submission (Section 41 paragraph 3) to the judge until the vote is completed.

A written vote may be withdrawn until the vote has been completed.

[tags: a creditor, hearing of a party, claim of a creditor, voting rights of a creditor]

## 44. §

If there is a lien on the declared claim, the right to vote belongs to the pledgor up to the value of the secured claim and to the notifier up to the amount of any surplus.

[tags: a lien, a pledgor, a creditor, hearing a party, claim of a creditor, voting rights of a creditor]

## 45. §

A relative in the ascending or descending line, a relative in the ascending line up to and including the cousin, the spouse and the fiancé, the spouse, and the brother of the spouse of the debtor shall have the right to vote only if they vote against the acceptance of the offer of settlement. The same shall apply to those who have acquired the claim in question by means of a legal transaction between the said persons, if the succession followed the initiation of the proceeding or took place within 1 year before the initiation of the proceeding.

[tags: a debtor, a family of a debtor, a creditor, hearing of a party, claim of a creditor, voting rights of a creditor]

#### 46. §

A creditor who is not entitled to vote at all or only to a lesser extent, or whose voting rights have been challenged by one of the interested parties, shall also be admitted to the vote. The judge will determine in the order approving the settlement whether and to what extent the vote shall be counted.

[tags: a creditor, hearing of a party, claim of a creditor, voting rights of a creditor]

#### 47. §

The subject of the voting is the acceptance or not acceptance of the whole offer of settlement. (...)

[tags: a creditor, hearing of a party, voting]

#### 48. §

A settlement offer shall be deemed to be accepted if the claims of the creditors who accept it represent, in amount, at least two-thirds of the capital requirements of all the creditors to whom voting rights belong. If the person referred to in Section 45 does not exercise his right to vote, his claim shall not be considered in determining the majority of votes.

If the majority specified in paragraph 1 could not be reached, the judge may, at the immediate request of the debtor, set a further time limit of 15 days.

Interested parties who were not present at the time of the issuance of the order for the next due date shall be summoned in accordance with the provisions of Sections 11 and 12.

The vote previously submitted shall remain in effect on the next due date unless the creditor changes it.

The judge may refrain from re-voting if it is obvious that a new vote would not change the outcome of the previous vote in terms of accepting or not accepting the settlement offer.

(...)

[tags: a settlement offer, a creditor, claim of a creditor, voting rights of a creditor]

### CHAPTER VI

#### **Approval of the settlement. The completion and termination of the procedure**

#### 52. §

The approval of the judge is necessary for the validity of the settlement.

The decision on the approval shall be published (Section 10). The decision shall be communicated with the debtor, all notifying creditors and any known interested party who has the right to lodge an appeal against it.

[tags: approval of a settlement, a debtor, a creditor, notification of decision concerning a settlement]

### 53. §

The approval of the settlement shall be denied:

1. in cases, when the proceeding should not have been initiated or it should have been terminated;
2. if an essential procedural requirement has been infringed, unless the deficiency can be remedied subsequently;
3. if the settlement has promised or provided special benefits to certain creditors, contrary to the provisions of Section 49.

[tags: denial of a settlement]

### 54. §

The judge may deny the approval of the settlement:

1. if, contrary to Section 50, certain creditors have been promised or secured a special advantage outside the settlement, or if the debtor has otherwise acted fraudulently around the creation of the entity or the creation of the financial situation giving rise to the entity;
2. if, after the insolvency or cessation of payments, the debtor has given some creditors satisfaction or insurance which did not correspond to his financial situation at that time;
3. if it is not possible to obtain sufficient information about the financial situation of the debtor;
4. if there is a disproportionate disproportion between the extent of the advantages granted to the debtor in unity and the financial situation of the debtor to the detriment of the creditors.

[tags: denial of a settlement, a debtor, a creditor]

### 55. §

If the order approving the unity has become a decision with binding force, the proceedings shall be declared closed.

The completion of the procedure shall be made public. (...)

[tags: termination of settlement proceeding]

**56. §**

Apart from the cases, when the judge may terminate the proceeding, it shall also be terminated:

1. if the procedure should not have been initiated;
  2. if the debtor does not advance the costs of the proceedings despite a court decision;
  3. if the debtor does not present the list of creditors and the balance sheet within the time allowed to him;
  4. if the debtor does not take the oath (Section 40);
  5. if the single offer has not been accepted by a majority of the creditors as defined in this decree;
  6. if the court denies the approval of the accepted compulsory settlement.
- (...)

[tags: termination of settlement proceeding, a debtor, a creditor, a list of creditors, a provisional balance sheet, an oath of a debtor, denial of a settlement]

**CHAPTER VII  
Appeal****60. §**

Otherwise provided by this decree, appealing against orders issued during the procedure is not possible. Against an order containing a pecuniary conviction and such order that orders a judicial deposit, also the order rejecting the initiation of the procedure, the orders approving the settlement, denying it, as well as the orders declaring the procedure closed or terminating it, a single appeal is possible to the royal regional court of appeal.

The court of appeal may hear the parties through a delegate judge and may take the necessary evidence.

A creditor who has consented to the settlement may not appeal against the order approving the settlement; and a creditor who has voted against unity may not file an opposition against the order refusing approval.

A creditor who has not enforced his claim in due time may bring an action against the order approving the settlement only if he makes it probable that he has failed to enforce his claim through no fault of his own and if he proves the existence and amount of his claim credibly.

The time limit for filing an appeal against a decision published in the official gazette by way of a public notice shall be 15 days. This period shall begin on the day of the first publication of the notice in the official gazette for all interested parties (Section 449 paragraph 1 of the Code of Civil Procedure).

[tags: an appeal, proceeding in an appellate court of law]