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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*<sup>1</sup> has adopted and the President has proclaimed the following Law:

## **The Commercial Law**

### **Part A**

### **General Principles of Commercial Activities**

#### **Division I**

#### **Merchants and Commercial Activities**

##### **Section 1. Merchants and Commercial Activities**

(1) A merchant is a natural person (individual merchant) or a commercial company (partnership and capital company) registered with the Commercial Register.

(2) Commercial activity is an open economic activity, which is performed by merchants in their name for the purposes of gaining a profit. Commercial activity is one of the types of entrepreneurial activity.

(3) Economic activities are any systematic, independent activities for remuneration.

(4) In this Law it may be specified that particular types of economic activities may only be performed by a merchant. The status of a merchant may be granted by law also to other persons.

[14 February 2002]

##### **Section 2. Legal Effect of Registration**

If a merchant is registered in the Commercial Register, an objection that the economic activities, which are performed utilising the firm name registered in the Commercial Register are not commercial activities shall not be allowed.

##### **Section 3. Legal Regulation of Commercial Activities**

(1) Commercial activities shall be regulated by this Law, by The Civil Law and other laws, as well as by the norms of international law that are binding on Latvia.

<sup>1</sup> The Parliament of the Republic of Latvia

(2) The provisions of The Civil Law shall apply to commercial activities only insofar as this Law or other laws that regulate commercial activities do not specify otherwise.

(3) The provisions of this Law shall apply to persons who are not merchants, or to economic activities that are not commercial activities if this Law or another law especially provides for it.

(4) The provisions of this Law shall not apply to agricultural production and other trade activities, which are performed by a natural person and are regulated by other laws, if the person who performs them has not been registered in the Commercial Register as an individual merchant.

[14 February 2002]

#### **Section 4. Restrictions on Commercial Activities**

(1) Restrictions on commercial activities may only be specified by law or on the basis of law.

(2) Merchants have the right to freely choose types of commercial activities that are not prohibited by law.

(3) In this Law, separate types of commercial activities may be specified, for the performance of which a permit (licence) is necessary, or also that may be performed by merchants in conformity with the requirements specified by this Law.

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#### **Section 5. Merchant Status and Public Law**

The provisions of public law which prohibit the performance of specified types of commercial activities, or also provide for certain preconditions for the performance of such commercial activities, shall not influence the application of the provisions of this Law.

### **Division II The Commercial Register**

#### **Section 6. Maintenance of the Commercial Register**

(1) Information as specified by law regarding merchants and commercial activities specified by law shall be recorded in the Commercial Register.

(2) The Commercial Register shall be maintained by a State institution authorised by law (hereinafter – Commercial Register Office).

#### **Section 7. Transparency of the Commercial Register**

(1) Everyone has a right to become acquainted with the records of the Commercial Register and the documents submitted to the Commercial Register Office.

(2) Everyone, pursuant to a relevant written request and payment of a State fee, has a right to receive an extract from the records of the Commercial Register, as well as extracts or copies of documents which are in the registration file of the merchant. Pursuant to a request from the recipient, the accuracy of the extract or copy shall be certified by the signature of an official and the seal of the Commercial Register Office, indicating the date of issue.

(3) Pursuant to a request from the recipient, an official of the Commercial Register Office shall issue a notice that the specified record in the Commercial Register has not been amended, or also regarding the fact that a specific record has been made.

## **Section 8. Contents of the Record in the Commercial Register**

(1) In respect of an individual merchant the following information shall be recorded in the Commercial Register:

firm name;

1) given name, surname, personal identity number and residential address of the merchant;

2) legal address; and

3) branch firm name, if it is different from the firm name of the merchant, and its legal address.

(2) In respect of a partnership the following information shall be recorded in the Commercial Register:

1) firm name;

2) type of partnership;

3) amount of contribution by each limited partner and the total amount of limited partner contributions;

4) given name, surname, personal identity number and residential address of the members and limited partners personally liable for the partnership, but for legal persons – name, registration number and legal address;

5) the given name, surname, personal identity number and residential address of those members of the partnership, but for legal persons – name, registration number and legal address, who are specially authorised to represent the partnership, indicating whether they have the right to represent the partnership individually, jointly or jointly with a proctor; or who have been excluded from representation;

6) legal address;

7) if the partnership has been established for a specific time period – the time period for which it was established; and

8) branch firm name, if it is different from the firm name of the partnership, and its legal address.

(3) In respect of a capital company the following information shall be recorded in the Commercial Register:

1) firm name;

2) type of capital company;

3) given name, surname, personal identity number, residential address and office held of the members of the board of directors, members of the council (if the capital company has formed a council) and of the auditor;

4) the given name, surname, personal identity number and residential address of those members of the board of directors of the capital company, who are specially authorised in accordance with the articles of association to represent the capital company, indicating whether they have the right to represent the capital company individually, jointly or jointly with a proctor;

5) amount of equity capital, separately indicating the subscribed and paid-up amounts of equity capital;

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7) legal address;

8) if the capital company has been established for a specific time period – the time period for which it was established; and

9) branch firm name, if it is different from the firm name of the capital company, and its legal address.

(4) In respect of a branch of a foreign merchant the following information shall be recorded in the Commercial Register:

1) branch firm name, if it is different from the firm name of the foreign merchant, and the firm name of the foreign merchant;

2) legal address of the branch and the location of the foreign merchant (legal address); the register where the foreign merchant is registered, and registration number, if the law of the state of the location of the foreign merchant provides for the recording of a merchant in a register;

3) the type of foreign merchant; and

4) amount of equity capital of the foreign merchant, separately indicating the subscribed and paid-up amounts of equity capital, if the foreign merchant is a capital company and this information is recorded in the state register in which the foreign merchant is recorded.

(5) In addition to the information referred to in Paragraphs one, two, three and four of this Section, the following information shall be recorded in the Commercial Register:

1) given name, surname and personal identity number of the proctor, as well as a reference to a total procurator or branch procurator if such procurator has been issued, and a reference to the granting of the rights referred to in Section 34, Paragraph two of this Law if such rights have been granted;

2) the given name, surname, personal identity number, residential address and scope of authorisation of those persons who are authorised to represent the activities of a merchant (foreign merchant) which are associated with a branch;

3) information regarding the termination, insolvency, liquidation and re-organisation of the activities of the merchant (foreign merchant);

4) information regarding the appointment of an administrator or a liquidator, indicating the given name, surname, personal identity number and residential address of the administrator (liquidator);

5) group of companies agreement, if such has been concluded; and

6) date of the entry of each record.

(6) Other information shall be recorded in the Commercial Register, if such is explicitly provided for by law.

(7) Upon the registration of a merchant, an individual registration number shall be granted to them.

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## **Section 9. Documents to be Submitted to the Commercial Register Office and their Preservation**

(1) Documents which provide the basis for the entry of a record in the Commercial Register, and other documents specified by law, as well as the notarised sample signatures of the persons specified by law shall be submitted to the Commercial Register Office. The relevant original document or its appropriately certified copy shall be submitted to the Commercial Register Office. Public documents issued in foreign states shall be validated according to procedures specified in international agreements, and they shall have attached to them a notarised translation in the Latvian language.

(2) Following amendments made in the documents of incorporation of a capital company (memorandum of association, articles of association), the text of the amendments, as well as the full text of the document as amended, shall be submitted to the Commercial Register.

(3) Documents submitted to the Commercial Register Office shall be preserved in the relevant Commercial Register file of the merchant.

#### **Section 10. Entry of Records in the Commercial Register**

(1) Records in the Commercial Register shall be entered on the basis of an application of an interested person or a court adjudication. The form for an application shall be approved by the Cabinet.

(2) The signature of a person on an application for the recording of a merchant in the Commercial Register shall be notarised. The capacity to act of such persons shall be similarly certified. A special power of attorney for another person to sign such application shall also be notarised.

(3) A decision regarding the entry of a record in the Commercial Register, a refusal to enter a record or the postponement of the entry of a record shall be taken within a period of three days from the day of receipt of the application by an official of the Commercial Register Office. Within the same term, an official of the Commercial Register Office shall take a decision regarding the entry of a record in the Commercial Register on the basis of a court adjudication.

(4) A decision to refuse to enter a record in the Commercial Register or the postponement of the entry of a record may only be taken in such case if the application, or the documents attached to it, does not conform to the provisions of law. The decision shall be substantiated. A decision regarding the postponement of the entry of a record shall indicate the term for rectifying of deficiencies.

(5) An official of the Commercial Register shall send the decision referred to in Paragraph three of this Section to the submitter of an application within a period of three days from the day when the decision was taken.

(6) The submitter of an application has the right to appeal a decision of an official of the Commercial Register in accordance with procedures specified by law.

(7) A record in the Commercial Register shall be entered on the same day as when the decision was taken regarding the entry of the record.

#### **Section 11. Promulgation of Records in the Commercial Register**

(1) All records of the Commercial Register shall be promulgated by publishing them in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia], at the same time publishing them electronically. Similarly, information regarding documents of incorporation and their amendments, indicating the date of registration and the number of the Commercial Register file in which the document is located shall be promulgated.

(2) Commercial Register records and information for publication shall be submitted by an official of the Commercial Register within a period of three days from the date when the record was entered. Commercial Register records and information shall be published at the expense of the relevant merchant if a different procedure for covering the costs of publication has not been specified by law.

(3) The amount of costs and procedures for collection thereof shall be determined by the Cabinet.

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## **Section 12. Public Access to the Commercial Register**

(1) Records in the Commercial Register shall be in effect as to third persons from the date of their publication. This provision shall not apply to legal activities, which are performed within a period of 15 days following the promulgation of the record, insofar as the third person can prove that he or she did not know or could not have known the relevant information.

(2) If the information to be recorded in the Commercial Register has not been recorded or has been recorded but not promulgated, the person in whose interests such information should have been recorded cannot utilise it against a third person, except in the case, when the third person knew the referred to information.

(3) If the information to be recorded in the Commercial Register has been recorded or has been promulgated incorrectly, a third person, in relation to the person in whose interests such information should have been recorded, may refer to the promulgated information, except in the case when the third person knew that the promulgated information does not correspond to the actual legal status or the information recorded in the Commercial Register.

(4) If a merchant is sent information, documents or other correspondence to their legal address as recorded in the Commercial Register, it shall be deemed that the merchant has received such documents, information or other correspondence, if the sender proves documentarily that such sending was performed.

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## **Section 13. Registration Certificate**

(1) After the recording of the merchant in the Commercial Register, a registration certificate shall be issued to the merchant, which is signed and certified with a seal by an official of the Commercial Register Office.

(2) The registration certificate shall indicate the merchant's:

- 1) firm name;
- 2) type;
- 3) registration number;
- 4) place of registration; and
- 5) date of registration.

## **Section 14. Deletion of a Merchant from the Commercial Register**

A merchant maybe deleted from the Commercial Register on the basis of:

- 1) an application of an individual merchant;
- 2) an application of a liquidator of a commercial company;
- 3) an application of an administrator in a matter of insolvency;
- 4) an application of a commercial company to enter a record of re-organisation; or
- 5) a court adjudication.

## **Section 15. State Fees**

(1) A State fee shall be paid for the entry of a record in the Commercial Register, the amount of which shall be determined by the Cabinet.

(2) A State fee in the amount determined by the Cabinet shall be paid for extracts from the Commercial Register and for extracts or copies of existing documents in the Commercial Register file, as well as for the issuance of notices. The amount of the referred to State fee

may not exceed the administrative costs which are associated with the preparation and issuance of the relevant extracts or copies.

#### **Section 16. Term for Submission of Information**

Information, upon which basis new records are to be entered, as well as the documents specified by law to be submitted, shall be submitted to the Commercial Register Office within a period of 14 days from the day that the relevant decision is taken if this Law does not specify otherwise.

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#### **Section 17. Particulars of a Merchant**

(1) The following particulars shall be included in the business letters, invoices and other documents of a merchant:

- 1) the firm name of the merchant;
- 2) the registration number of the merchant at the Commercial Register;
- 3) the legal address of the merchant; and
- 4) in relevant cases – information regarding whether the merchant is in the process of liquidation or insolvency.

(2) If the merchant has opened a branch, then the following shall be included in its documents, in addition to the information referred to in Paragraph one of this Section:

- 1) the firm name of the branch if it differs from the firm name of the merchant;
- 2) the registration number of the branch with the Commercial Register; and
- 3) the legal address of the branch.

(3) If the size of the equity capital is referred to in the particulars of a capital company, the size of the paid-up equity capital shall also be indicated.

### **Division III Undertakings and Branches**

#### **Section 18. Definition of an Undertaking**

An undertaking is an organisational economic unit. The undertaking includes both tangible and intangible things belonging to a merchant, as well as other economic benefits (value), which are utilised by the merchant to perform commercial activities.

[14 February 2002]

#### **Section 19. Commercial Secrets**

(1) A commercial secret comprises such things of an economic, technical or scientific nature associated with the undertaking of a merchant, and information which is recorded in writing or by other means, or is not recorded, which have an actual or potential financial or non-financial value, and which, by their coming into the disposition of another person, may cause losses to the merchant, and in relation to which a merchant has taken reasonable measures to preserve secrecy.

(2) A merchant has exclusive rights to commercial secrets.

(3) A merchant has the right to request the protection of commercial secrets, as well as compensation for losses, which have been caused by the illegal disclosure, or utilisation of the commercial secrets.

## **Section 20. Transfer of an Undertaking**

(1) If an undertaking or its independent part is transferred to the ownership or use of another person, the acquirer of the undertaking shall be liable for all the obligations of the undertaking or its independent part. However, in respect of those obligations which arose prior to the transfer of the undertaking or its independent part to the ownership or use of another person, and the terms or conditions for the fulfilment of which come into effect five years after the transfer of the undertaking, the transferor of the undertaking and the acquirer of the undertaking shall be solidarily liable if the transfer agreement does not specify otherwise.

(2) In the case of the transfer of ownership or use of an undertaking or its independent part, claims and other rights included in the undertaking or its part shall be transferred to the acquirer of the undertaking.

(3) An agreement, which is in contradiction to the provisions of this Section, shall be void as to third persons.

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## **Section 21. Transfer of an Undertaking of an Individual Merchant to a Partnership**

(1) If an undertaking of an individual merchant is transferred to a partnership which is founded by this individual merchant and another person, the partnership thus founded shall be liable for all the obligations of the individual merchant included in the undertaking.

(2) In the case of the transfer of an undertaking, claims and other rights in relation to debtors included in the undertaking shall be transferred to the partnership thus founded.

(3) An agreement, which is in contradiction to the provisions of this Section, shall be void for third persons.

## **Section 22. Definition of a Branch**

A branch is an organisationally independent part of an undertaking, which is territorially or otherwise separated from the principle undertaking and at the location of which commercial activities are systematically performed in the name of the merchant.

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## **Section 23. Recording of a Branch in the Commercial Register**

(1) The opening of a branch, based upon an application from a merchant, shall be recorded in the Commercial Register.

(2) The following shall be indicated in the application:

- 1) the firm name and registration number of the merchant;
- 2) the firm name of the branch if it differs from the firm name of the merchant;
- 3) the legal address of the branch; and
- 4) the person who is authorised to represent those activities of the merchant which are associated with the branch, and the scope of their powers.

## **Section 24. Deletion of a Branch from the Commercial Register**

A branch shall be deleted from the Commercial Register:

- 1) on the basis of an application by the merchant regarding the closure of a branch; or
- 2) if the merchant is deleted from the Commercial Register.



## **Section 25. Branches and Representative Offices of Foreign Merchants**

(1) The provisions of this Law shall be applied to branches of foreign merchants, insofar as is not otherwise specified in this Section.

(2) In an application for the recording of a branch of a foreign merchant in the Commercial Register the following shall be indicated:

- 1) the firm name of the branch;
- 2) the firm name of the foreign merchant;
- 3) the legal address of the branch;
- 4) the location (legal address) of the foreign merchant;
- 5) the types of activities of the branch;
- 6) the register in which the foreign merchant is registered and registration number if the law of the state of the location of the foreign merchant provides for the recording of the merchant in a register;
- 7) the person who is authorised to represent those activities of the foreign merchant which are associated with the branch, and the scope of such powers; and
- 8) the type of foreign merchant.

(3) The application for the recording of a branch of a foreign merchant in the Commercial Register shall have attached the following documents:

- 1) a document which certifies the registration of the merchant in the relevant state, or a notarised copy of such document, if the law of the state of the location of the foreign merchant provides for the recording of the merchant in a register;
- 2) a permit to found a branch if such is provided for by law;
- 3) a notarised copy of the articles of association, memorandum of association or a document equivalent to such of the merchant; and
- 4) a document which certifies the authorisation of a person to represent the foreign merchant in all activities associated with the branch, and the scope of such powers.

(4) The person referred to in Paragraph two, Clause 7 of this Section, the foreign merchant or lawful representatives of such merchant shall submit to the Commercial Register Office an application regarding:

- 1) the initiation or completion of the termination of activities, insolvency, invitation to tender or procedures equivalent to these of the activities of the merchant;
- 2) the liquidation of the merchant, as well as re-organisation if the foreign merchant is a company;
- 3) the appointment of an administrator or liquidator indicating the given name, surname, residential address and scope of powers of the administrator (liquidator); or
- 4) the deletion of the branch from the Commercial Register.

(5) The persons referred to in Paragraph four of this Section shall submit to the Commercial Register Office an application regarding any changes in the composition of such persons and the scope of their powers.

(6) The annual accounts of a foreign merchant shall be submitted to the Commercial Register Office if the law of the state of the location of the foreign merchant provides for the submission of the annual accounts to the state register of the location of the merchant.

(7) All documents to be submitted to the Commercial Register shall have attached notarised translations in the Latvian language.

(8) A foreign merchant has the right to open a representative office in Latvia. A representative office is not a legal person, and it does not have a right to conduct commercial activities in Latvia.

## **Division IV Firm Names**

### **Section 26. Definition of a Firm Name**

(1) A firm name is the name of a merchant recorded with the Commercial Register, which a merchant utilises in commercial activities, in concluding transactions and in signing.

(2) In a narrower sense, the firm name shall be understood as a designation without reference to the type of merchant.

[14 February 2002]

### **Section 27. Reference to the Type of Merchant**

(1) The firm name of an individual merchant shall contain the reference “individuālais komersants” [individual merchant] or its abbreviation “IK”.

(2) The firm name of a general partnership shall contain a reference “pilnsabiedrība” [general partnership] or its abbreviation “PS.” The firm name of a limited partnership shall contain a reference “komandītsabiedrība” [limited partnership] or its abbreviation “KS”.

(3) The firm name of a limited liability company shall contain a reference “sabiedrība ar ierobežotu atbildību” [limited liability company] or its abbreviation “SIA”. The firm name of a stock company shall contain a reference “akciju sabiedrība” [stock company] or its abbreviation “AS”.

(4) The references to the type of merchant shall be placed at the beginning or end of the firm name.

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### **Section 28. Firm Name Distinctiveness**

The firm name of a merchant (Section 26, Paragraph two) shall clearly and specifically differ from other firm names which have already been recorded in or as to which recording has been applied for with the Commercial Register.

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### **Section 29. Restrictions on the Choice of the Firm Name**

(1) A firm name may not contain misleading information regarding important circumstances within the scope of commercial rights, especially regarding the type of merchant or commercial activities or also regarding the scope of commercial activities.

(2) A firm name may not be in contradiction with good morals.

(3) The Cabinet shall determine the restrictions on the inclusion of the word “Latvija” [Latvia] and its translation into foreign languages in firm names.

(4) If a firm name contains the name of an administrative territory or populated area, the firm name may not coincide with the relevant administrative territory or populated area, except for the name of a homestead.

(5) A designation, which is a substantial component part of a trademark protected in Latvia, may be contained in a firm name only if written permission has been received from the relevant merchant or persons to whom the trademark belongs.

(6) Only Latvian or Roman alphabet letters may be used in writing the firm name.

### **Section 30. Inclusion of Personal Names in Firm Names and the Continued Utilisation of Firm Names**

(1) The firm name of an individual merchant may contain the given name or surname of the merchant. If the given name or surname of the individual merchant changes, he or she may also continue to utilise the previous firm name.

(2) The firm name of a general partnership may not contain the given name, surname or name of such persons as who are not its members. The firm name of a limited partnership may not contain the given name, surname or name of such persons as who are not its general partners. If the given name or surname (name) of its personally liable member changes, the given name or surname (name) of which is contained in the firm name of the partnership, the partnership may also continue to utilise the previous firm name.

(3) If a new personally liable member joins an existing partnership or one of the personally liable members' leaves the partnership, the partnership may also continue to utilise the previous firm name. If a member leaves whose given name, surname (name) is contained in the firm name, the continued utilisation of the previous firm name shall require the written consent of such member, or in the case of his or her death – of the heirs if the memorandum of association does not specify otherwise.

(4) Upon the acquisition of an existing undertaking, the acquirer may also continue to utilise the previous firm name, in which is included the given name or surname of the previous owner, if the previous owner or – in the case of the death of the owner – his or her heirs, have consented in writing to the continued utilisation of the firm name.

(5) The provisions of Paragraph four of this Section shall be applied in cases, when an undertaking is acquired on the basis of usufructuary rights, a lease or similar legal relationship.

[14 February 2002]

### **Section 31. Alienation of Firm Names**

A firm name may only be alienated together with the relevant undertaking.

### **Section 32. Firm Names of Branches**

A branch of a merchant may have its own firm name, which shall contain the firm name of the merchant, the name of the branch or a reference to its location and the word “filiāle” [branch].

### **Section 33. Protection of Firm Names**

A merchant whose rights are infringed in relation to the utilisation of their firm name, may request from the infringer that they terminate the utilisation of the firm name, as well as compensate the merchant for the losses incurred by the illegal utilisation of the firm name.

**Division V**  
**Procurations and Ordinary Commercial Powers of Attorney**

**Section 34. Procurations**

- (1) Procurations are commercial powers of attorney, which grant to the proctor the right to conclude transactions and to perform other legal activities associated with commercial activities on behalf of a merchant, including all procedural activities in the course of legal proceedings (bringing an action, settlement, appeal of a court adjudication and the like).
- (2) A proctor may alienate, pledge or encumber immovable property with rights pertaining to property only if such rights have been specially granted to him or her.

**Section 35. Issuance of a Procurations**

- (1) Only a merchant or a legal representative of such merchant may issue a procurations, moreover with a specific expression of intent.
- (2) A procurations may be issued simultaneously to several persons. On the basis of such a procurations (joint procurations), the joint proctors have the right to represent the merchant only jointly.
- (3) A proctor does not have the right to transfer the procurations to another person.

**Section 36. Restrictions on the Scope of a Procurations**

- (1) Restrictions on the scope of a procurations shall be void as to third persons.
- (2) The provisions of Paragraph one of this Section shall especially apply to such restrictions of the scope of a procurations, as a result of which the procurations may be utilised only:
  - 1) in relation to specified transactions, specified types of transactions or their scope;
  - 2) when certain circumstances exist; or
  - 3) for a specified time or in a specified area.
- (3) The restriction of the scope of a procurations in relation to one of several branches of a merchant's undertaking (a branch procurations) shall be in effect as to third persons only if such branches have different firm names recorded in the Commercial Register.

**Section 37. Signature of a Proctor**

A proctor shall sign adding to the firm name of the merchant his or her signature and an indication of the existence of a procurations ("procurists" [proctor], *p.p.*, *per procura*).

**Section 38. Application for the Issuance of a Procurations, and Recording of Changes in the Representation Rights of a Proctor and Termination of a Procurations in the Commercial Register**

- (1) The issuance of a procurations shall be notified by the merchant for recording in the Commercial Register, indicating the given name, surname and personal identity number of the proctor. A notarised sample signature of the proctor shall be attached to the application.
- (2) If a joint procurations is issued or if in the procurations the proctor has been granted the right to alienate, pledge or encumber immovable property with rights pertaining to property, the merchant shall especially indicate this in the application regarding the recording of the procurations in the Commercial Register.

(3) Changes in the representation rights of a proctor and the termination of a procuration shall be notified by the merchant for recording in the Commercial Register.  
[14 February 2002]

### **Section 39. Termination of a Procuration**

(1) A merchant has the right to unilaterally revoke a procuration at any time irrespective of the legal relationship, upon which basis the procuration was issued. The revocation of a procuration shall not influence the rights of a proctor to receive the contracted remuneration.

(2) After the death of an individual merchant, the procuration shall remain in effect.

(3) A procuration shall terminate upon the death of the proctor.

[14 February 2002]

### **Section 40. Ordinary Commercial Power of Attorney**

(1) If a merchant, without issuing a procuration authorises some other person to conduct in his or her name commercial activities, to conclude specific types of transactions related to the commercial activities performed by the merchant or also to conclude separate transactions related to the commercial activities performed by the merchant, such a power of attorney (an ordinary commercial power of attorney) shall relate to all lawful activities which are usually directed to the performance of such commercial activities or the concluding of such transactions.

(2) A person with a commercial power of attorney may alienate, pledge or encumber immovable property with rights pertaining to property, undertake obligations under bills of exchange, take loans or represent the merchant in court only if such rights have been especially granted to them.

(3) Any other restrictions on the authorisation granted to a person with a commercial power of attorney shall be in effect as to third persons only if they knew or should have known of such restrictions.

### **Section 41. Representatives Authorised to Conclude Transactions**

(1) The provisions of Section 40 of this Law shall also be applied to those persons with a commercial power of attorney who are commercial agents or who, as employees of a merchant, have been entrusted to conclude transactions in the name of the principal outside his or her undertaking.

(2) The authorisation issued to the persons with a commercial power of attorney referred to in Paragraph one of this Section, does not give them the right to change concluded transactions.

(3) The persons with a commercial power of attorney referred to in Paragraph one of this Section:

1) may receive payments if they are authorised to do it; and

2) shall be considered as authorised to take notifications regarding deficiencies in goods, regarding the supply of goods and other similar notifications, with the assistance of which a third person uses or keeps their rights in relation to the improper fulfilment of obligations, as well as using the rights to the securing of evidence belonging to the principal.

#### **Section 42. Employees of a Merchant at the Place of the Selling of Goods or Provision of Services**

Employees of a merchant who work in a place where goods are sold or services are provided, shall be considered to be authorised to sell such goods or provide such services, and to perform other legal activities associated with such, which are usually performed at such places.

#### **Section 43. Signature of a Person with a Commercial Power of Attorney**

A person with a commercial power of attorney shall sign, adding to the firm name of the merchant an addition which indicates of the existence of a power of attorney. A person with a commercial power of attorney may not add to his or her signature additions which may create a misleading impression regarding the existence of a procuration.

#### **Section 44. Further Transfer of a Commercial Power of Attorney**

A person with a commercial power of attorney may transfer the power of attorney granted to him or her further to another person only if he or she has been specifically granted such rights.

### **Division VI Commercial Agents**

#### **Section 45. Definition of a Commercial Agent**

A commercial agent is a merchant who has been authorised to permanently conclude transactions with third persons in the name and to the benefit of another person (principal) or also to prepare transactions for concluding.

#### **Section 46. Form of Commercial Agent Contract**

A commercial agency contract shall be concluded in writing.

#### **Section 47. Duties of a Commercial Agent**

- (1) A commercial agent, taking into account the interests of the principal, shall take care of the concluding of transactions or their preparation for concluding.
- (2) A commercial agent shall transfer to the principal all necessary information and documents. A commercial agent has a special duty to inform the principal without delay regarding each concluding of a transaction or its preparation for concluding.
- (3) A commercial agent shall perform his or her duties with the due care of a diligent merchant and comply with the reasonable instructions of the principal.
- (4) An agreement which is in contradiction with the provisions of this Section shall be void.

#### **Section 48. Duties of a Principal**

- (1) A principal shall transfer to the commercial agent documents (samples, drawings, price lists, advertising brochures, transaction regulations and others) which are necessary for the commercial agent to perform his or her duties.

- (2) A principal has a special duty to notify a commercial agent without delay, regarding:
- 1) his or her acceptance of such transactions which the commercial agent has prepared for concluding, or regarding refusal to conclude such a transaction;
  - 2) the non-performance of such transactions which the commercial agent has concluded or has prepared for concluding; and
  - 3) a significant decrease in the volume of transactions if the principal anticipates such a decrease in comparison with the volume upon which the commercial agent could usually rely.
- (3) An agreement which is in contradiction to the provisions of this Section shall be void.

#### **Section 49. Remuneration of a Commercial Agent**

- (1) If remuneration has not been contracted for, a commercial agent has the right to receive such remuneration as is normally paid in the relevant area for the concluding of the same or similar transactions. If there is no such a standard, a commercial agent has a right to a reasonable remuneration, which shall be determined taking into account all the circumstances associated with the relevant transaction.
- (2) A remuneration or its part payable to a commercial agent, which fluctuates according to the number or value of the relevant transactions, is a commission.
- (3) The provisions of Sections 50 to 52 of this Law in relation to commercial agent remuneration shall be applied insofar as the remuneration in full or in part is paid in the form of a commission.

#### **Section 50. Rights of a Commercial Agent to Commission**

- (1) A commercial agent has a right to commission on a transaction, which is concluded during the period that the commercial agency contract is in effect, if such transaction has been concluded as a result of his or her action, or also with a person whom the commercial agent has previously acquired as a client for transactions of the same kind.
- (2) If a commercial agent has been entrusted to work within a specific geographical territory or with a specific group of clients, he or she has a right to commission also on such transactions, which during the period that the commercial agency contract is in effect, without his or her participation, are concluded with a client who belongs to such geographical territory or group of clients.
- (3) In relation to transactions, which are concluded after the commercial agency contract has expired, a commercial agent has a right to commission only if:
- 1) the transaction has been concluded primarily because of his or her activities which were performed during the period that the commercial agency contract was in effect, and such transaction was concluded within a reasonable period of time after the commercial agency contract expired; or
  - 2) prior to the expiration of the commercial agency contract, the commercial agent or the principal had received an offer from a third person regarding the concluding of such a transaction, in respect of which the commercial agent has a right to commission in accordance with the provisions of Paragraph one or two of this Section.
- (4) A commercial agent shall not have a right to a commission in accordance with the provisions of Paragraph one or two of this Section, if it in accordance with the provisions of Paragraph three of this Section, is due the previous commercial agent, except in the case, when special circumstances justify the equitable sharing of the commission between these commercial agents.

## **Section 51. Coming into Effect of a Term for the Payment of a Commission**

(1) A commercial agent has a right to commission as soon as and to the extent the principal has performed the transaction. The persons may also agree regarding different provisions, however, at the moment when the principal has performed the transaction, the commercial agent has a right to an appropriate advance payment, which shall be paid not later than on the last day of the next month. Irrespective of such an agreement, the commercial agent has a right to commission as soon as and to the extent the third person has performed the transaction.

(2) If a principal has performed a transaction, but it is clear that the third person will not perform the transaction, the right of the commercial agent to commission is terminated. In such case, the commercial agent has a duty to return the amounts already received.

(3) A commercial agent has a right to commission also when it is clear that the principal has not fully or in part performed the transaction, or also has not performed the transaction in such a way as it was concluded. The right of a commercial agent to commission in the case of non-performance of the transaction shall terminate only then if the cause of such non-performance was circumstances independent of the principal.

(4) A commission shall be paid not later than on the last day of the month in which, in accordance with the provisions of Section 52, Paragraph one of this Law, the principal has a duty to calculate the commission due to the commercial agent.

(6) Agreements which are in contradiction to the first sentence of Paragraph two of this Section, as well as the provisions of Paragraphs three and four, if it worsens the situation of the commercial agent, shall be void.

## **Section 52. Calculation of Commission**

(1) A principal has a duty to, calculate, each month the amount of commission due a commercial agent. The calculation period may be extended not longer than up to three months. The calculation shall be performed without delay, but not later than within a period of one month following the end of the calculation period.

(2) A commercial agent receiving the calculation may request an extract from the accounts regarding all transactions, for which he or she has a right to commission. A commercial agent also has a right to request information which is of significant importance in respect of the right to receive a commission, the coming into effect of its payment terms and the calculation of the commission.

(3) If a commercial agent is refused an extract from the accounts, or also if there have arisen justified doubts regarding whether the calculation or the extract from the accounts is correct or complete, the commercial agent may request that the principal allow, pursuant to his or her choice, the commercial agent or a sworn auditor selected by them to become acquainted with the accounting and other documents insofar as is necessary to determine the correctness or completeness of the calculation or the extract from the accounts.

(4) Agreements, which revoke or restrict the rights of a commercial agent referred to in this Section, shall be void.

## **Section 53. *Del credere***

(1) A commercial agent who undertakes to guarantee the performance of the obligations of a third person (the other party to a transaction), has the right to special remuneration (*del credere*). An agreement that revokes these rights in the future shall be void.



(2) The guarantee referred to in Paragraph one of this Section may only pertain to specific transactions, or also to such transactions with third persons which the commercial agent has concluded or the concluding of which he or she prepared. A guarantee contract shall be concluded in writing.

(3) The right of a commercial agent to *del credere* arises at the moment of the concluding of the relevant transaction.

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#### **Section 54. Reimbursement of Costs**

A commercial agent may request the reimbursement of costs, which have occurred in the course of his or her commercial activity, only if it is normally so accepted within the scope of commercial rights.

#### **Section 55. Statute of Limitations**

The statute of limitations for claims arising from a commercial agency contract shall be four years, counting from the end of that calendar year in which they arose.

#### **Section 56. Right to Retainer**

(1) An agreement in which a commercial agent relinquishes in the future a lawful right to retainer shall be void.

(2) After the expiration of a commercial agency contract, a commercial agent may retain documents transferred for their use only in relation to the commission (remuneration) payable to him or her, or the reimbursement of costs associated with his or her commercial activities.

#### **Section 57. Notice of Cancellation of a Commercial Agency Contract**

(1) If a commercial agency contract is entered into for an indefinite time, each of the parties to the contract may cancel the commercial agency contract, observing the following terms for notice of cancellation:

1) one month, if the commercial agency contract is cancelled in its first year of operation;

2) two months, if the commercial agency contract is cancelled in its second year of operation;

3) three months, if the commercial agency contract is cancelled in its third year of operation; or

4) four months, if the commercial agency contract is cancelled in its fourth or subsequent years of operation.

(2) Agreements regarding shorter terms of notice of cancellation shall be void. If longer terms of notice of cancellation are contracted for, the term of notice of cancellation specified for the principal may not be shorter than the term of notice of cancellation specified for the commercial agent.

(3) If it has not been contracted for otherwise, the end of the calendar month shall be considered the end of the term of notice of cancellation.

(4) A commercial agency contract, which is entered into for a specified time period, and which both parties continue after the expiration of the contracted for time period, shall be considered to be have been entered into for an indefinite time period. In determining the

length of the term of notice of cancellation in accordance with Paragraphs one and two of this Section, the total length of the contractual relations shall be taken into account.

### **Section 58. Immediate Notice of Cancellation**

(1) Both parties may, at any time, cancel a commercial agency contract, not observing the specified terms for notice of cancellation if there is an important reason therefor. An agreement, which revokes or restricts such notice of termination rights, shall be void.

(2) If the immediate notice of termination of the commercial agency contract has given rise to such actions for which the other party is liable, then they shall have a duty to compensate the losses, which have occurred in relation to the cancellation of the contract.

### **Section 59. Right to an Indemnity**

(1) A commercial agent after the cancellation of a commercial agency contract may request relevant indemnity from the principal, if and insofar as:

1) the principal even after the cancellation of the commercial agency contract gains substantial benefits from transaction relations with new clients which were attracted by the commercial agent;

2) the commercial agent in connection with the cancellation of the commercial agency contract loses the right to a commission or remuneration, which he or she would have had in respect of transactions already concluded or to be concluded in the future with clients attracted by him or her if the commercial agency contract relations were continued; and

3) the payment of indemnity, taking into account all the circumstances, shall be expected from the principal on the basis of fairness.

(2) A significant increase in volume in relation to transactions with already attracted clients of a commercial agent, which in economic terms is equivalent to the attraction of new clients, shall be understood within the meaning of Paragraph one, Clauses 1 and 2 of this Section as the attraction of new clients.

(3) The amount of indemnity may not exceed the average annual commission or other average annual remuneration, which is calculated for the last five of the years of operation of the commercial agent. If the commercial agency contract relations have existed for a shorter period of time, the average annual commission or other average annual remuneration shall be calculated for this shorter time period.

(4) A commercial agent shall not have a right to claim indemnity if:

1) he or she has cancelled the commercial agency contract, except for cases when the actions of the principal have given a substantiated cause for a notice of termination, or also the commercial agent is unable to continue his or her activities due to old age or illness;

2) the principal has cancelled the commercial agency contract for such a significant cause, the basis of which is an action of the commercial agent who is at fault; or

3) on the basis of an agreement between the principal and the commercial agent a third person has replaced the commercial agent in the commercial agency contract relations. Such an agreement may not be concluded prior to the cancellation of the commercial agency contract.

(5) An agreement, on the basis of which a commercial agent disclaims his or her rights specified in this Section to request indemnity in the future, shall be void. The statute of limitation for a claim of indemnity shall be within a period of one year after the cancellation of the commercial agency contract.

## **Section 60. Duty of a Commercial Agent to Keep Commercial Secrets**

A commercial agent, also after the cancellation of the commercial agency contract, is prohibited to utilise or to disclose to third persons commercial secrets which are entrusted to him or her or of which he or she has become aware in relation to his or her activities for the benefit of the principal.

## **Section 61. Restrictions on Competition**

(1) An agreement by which the professional activities of a commercial agent are restricted after the cancellation of the commercial agency contract (restrictions on competition) shall be entered into in writing.

(2) Restrictions on competition may relate only to the geographical territory or the group of clients entrusted to the commercial agent, and is restricted to the field of activities in which he or she cared for concluding of transactions or preparing them for concluding. The time period of the restrictions on competition may not exceed two years after the commercial agency contract was cancelled

(3) It shall be the duty of a principal to pay a relevant remuneration to a commercial agent for the time of the competition restrictions.

(4) Prior to the cancellation of a commercial agency contract, a principal may at any time in writing waive the restrictions on competition. In such case the duty of a principal to pay the remuneration referred to in Paragraph three of this Section shall cease after six months from the date of notification of the waiver. If the principal has cancelled the commercial agency contract due to such a significant cause, the basis of which is an action of the commercial agent who is at fault, the commercial agent shall lose the right to receive remuneration.

(5) If a commercial agent has cancelled the commercial agency contract due to such a significant cause, the basis of which is an action of the principal who is at fault, the commercial agent may in writing waive the restrictions on competition within one month after the notice of cancellation of the commercial agency contract.

(6) An agreement, which is in contradiction to the provisions of this Section, if it worsens the situation of the commercial agent, shall be void.

## **Section 62. Restrictions on Authorisations of a Commercial Agent**

(1) The provisions of Section 41 of this Law shall be applied also to such commercial agents who have been authorised by a principal who is not a merchant.

(2) A commercial agent, also if he or she is not authorised to conclude transactions, shall be considered as authorised to accept notices regarding any deficiencies of goods, regarding the delivery of goods and other similar notices, with the assistance of which third persons use or reserve their rights in relation to the unsatisfactory performance of obligations, as well as using the rights of securing evidence belonging to the principal.

(3) The restrictions of the rights referred to in Paragraph one of this Section shall be binding on third persons only if they knew or should have known of such restrictions.

## **Section 63. Insufficiency of Authorisation**

(1) If a commercial agent, who has been authorised only to prepare transactions for concluding, concludes a transaction in the name of the principal and the third person did not know that the commercial agent was not authorised for this, it shall be considered that the principal has approved the transaction if the principal, after the commercial agent or the third

person has notified him or her regarding the concluding of the transaction and its contents, has not without delay repudiated such transaction.

(2) The provisions of Paragraph one of this Section shall also apply in cases when a commercial agent who is authorised to conclude transactions has concluded such a transaction in the name of the principal as he or she was not authorised to conclude.

## **Division VII Brokers**

### **Section 64. Definition of a Broker**

(1) A broker is a merchant who engages in intermediation for concluding transactions for the benefit of another person, not being permanently associated with such person through contractual relations.

(2) The provisions of this Chapter shall not apply to persons who perform stock exchange transactions.

### **Section 65. Final Text of a Transaction Document**

(1) A broker has a duty to submit to each of the parties to the transaction without delay, after the concluding of a transaction, a final text of a transaction document certified by the broker to each of the parties to the transaction, in which shall be indicated the parties to the transaction, the subject matter of the transaction and the provisions of the transaction, unless the parties to the transaction have released the broker from this duty.

(2) In transactions which are not to be immediately performed the final text of a transaction document shall be submitted to the parties to the transaction for signature, and each of the parties shall submit to the other party a signed transaction document.

(3) If one party to the transaction refuses to accept or sign the final text of a transaction document, the broker has a duty to inform, without delay, the other party about it.

### **Section 66. Reserved Tasks**

(1) If one party to a transaction accepts the final text of a transaction document, in respect of which a broker reserves the right to later indicate the other party, they have binding transaction relations with the other party to the transaction indicated later by the broker, unless objections are raised against the latter.

(2) The broker has a duty to indicate to the other party to the transaction the term specified, but if such is not specified – within a term appropriate for the relevant circumstances.

(3) If the broker, within the term referred to in Paragraph two of this Section, does not indicate the other party to the transaction or also if justified objections may be raised against the other party to the transaction, then the first party to the transaction has the right to request the performance of the transaction from the broker. Such rights shall lapse if, pursuant to a request from the broker, the first party to the transaction fails to notify without delay, regarding whether it shall request that the broker perform the transaction.

### **Section 67. Preservation of Samples**

(1) If goods have been sold through the intermediation of a broker pursuant to a sample which was transferred to the broker, he or she has a duty to preserve such sample until the goods are

accepted without objections regarding their characteristics, or also the transaction is performed in some other way. Samples shall be labelled with a relevant label.

(2) A broker does not have a duty to preserve samples, if the course of dealing, taking into account the relevant type of goods, or the parties to the transaction release him or her from this duty.

### **Section 68. Receipt of Performance**

A broker is not considered authorised to receive payments or any other specified performance of a transaction concluded with his or her intermediation.

### **Section 69. Liability of a Broker**

A broker shall be liable to each of the parties to the transaction for losses which have been incurred due to his or her fault.

### **Section 70. Remuneration of a Broker**

(1) The right to remuneration of a broker shall arise at the moment of the concluding of a transaction.

(2) If the parties to a transaction have not agreed between themselves which of them has a duty to pay remuneration to the broker, they shall pay the remuneration in equal parts.

### **Section 71. Reimbursement of Costs**

A broker may claim reimbursement of costs incurred by him or her only if such rights have been specifically contracted for.

### **Section 72. Journal of Transactions**

(1) A broker has a duty to maintain a journal of transactions, and each day shall record in it all the transactions concluded that day indicating the information referred to in Section 65, Paragraph one of this Law. The broker shall enter the records in chronological order and sign them every day.

(2) Records in the journal of transactions shall be full, precise, timely entered, understandable and systematically arranged.

(3) If the records in the journal of transactions are corrected, the original content of them shall be visible, and every correction shall be specially indicated and certified with a signature. A correction may not be made in such a way that when and why it was done is not understandable.

(4) A journal of transactions may be maintained in electronic form, if such a registration procedure complies with the regulations of properly conducted maintaining of accounts and the provisions of Paragraphs one, two and three of this Section. In such case, the data image shall be in such a form as ensures that a third person can read it and, if necessary, ensure its extract.

(5) Transactions in the journal of transactions shall be preserved in the archives of the broker for five years after the end of that calendar year in which the last record was made. These provisions shall be accordingly applied if the journal of transactions is maintained in electronic form.

### **Section 73. Extracts from a Journal of Transactions**

(1) A broker has a duty, at any time, pursuant to the request of any of the parties to the transaction, to issue extracts certified with his or her signature from the journal of transactions, in which shall be indicated all the information recorded in the journal of transactions regarding the transaction which was concluded for the benefit of such persons through the intermediation of the broker.

(2) A court may request the production of a journal of transactions.

## **Part B Merchants**

### **Division VIII Individual Merchants**

#### **Section 74. Individual Merchant**

An individual merchant is a natural person who is registered as a merchant with the Commercial Register.

#### **Section 75. Registration of an Individual Merchant**

(1) A natural person who performs economic activities has a duty to register himself or herself in the Commercial Register as an individual merchant, if the yearly turnover from economic activities performed by him or her exceeds 200 000 lati, or also the economic activities performed by him or her conforms to the following features:

1) the yearly turnover from these activities exceeds 20 000 lati; and

2) he or she, to perform his or her economic activities, provides employment simultaneously to more than five employees.

(2) A natural person may be registered himself or herself as a merchant also in the absence of circumstances referred to in Paragraph one of this Section.

(3) The basis for the registration of an individual merchant is an application by a natural person to the Commercial Register Office. The applications shall indicate the following:

1) the given name, surname, personal identity number and residential address of the individual merchant;

2) the firm name of the individual merchant;

3) the legal address of the individual merchant; and

4) the types of commercial activities.

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#### **Section 76. Right of an Individual Merchant to Utilise a Firm Name, and Liability**

(1) An individual merchant, may conclude transactions which are associated with commercial activities utilising his or her firm name, as well as be a plaintiff and a defendant in a court.

(2) An individual merchant shall be liable for his or her obligations with the whole of his or her property.

(3) A claim against an individual merchant, which arises from the performance of his or her commercial activities, has a statute of limitations period of three years after his or her deletion

from the Commercial Register if the claim is not subject to a shorter statute of limitations period.

(4) If the term or the conditions of the performance of an obligation by an individual merchant comes into effect after the individual merchant has been deleted from the Commercial Register, the statute of limitation period for the claims of creditors shall commence with the time of the coming into effect of the term for or the conditions of the performance of an obligation.

## **Division IX General Partnerships**

### **Chapter 1 General Provisions**

#### **Section 77. Definition of a General Partnership**

(1) A general partnership is a partnership, the purpose of which is the performance of commercial activities utilising a joint firm name, and in which two or more persons (members) have united, on the basis of a partnership agreement, without limiting their liability against creditors of the general partnership.

(2) The Civil Law provisions regarding partnership contracts shall be applied to a general partnership (hereinafter in this Division – partnership), insofar as this Chapter does not specify otherwise.

#### **Section 78. Application for Registration in the Commercial Register**

(1) In an application to register a partnership in the Commercial Register shall be indicated:

1) the given name, surname, personal identity number and residential address of each member of the partnership, but for legal persons – name, registration number and legal address;

2) the firm name of the partnership;

3) the type of partnership;

4) the legal address of the partnership; and

5) the types of commercial activities.

(2) The legal address of a partnership shall be considered to be the address of the place where the management of the partnership is located (the headquarters of the partnership). Changes of the legal address shall be notified to the Commercial Register for registration.

(3) Changes in the firm name of the partnership shall be notified to the Commercial Register for registration, as well as new members joining the partnership.

(4) All members of the partnership have a duty to sign the applications referred to in Paragraphs one, two and three of this Section.

(5) Notarised sample signatures for all the members of a partnership who have the right to represent the partnership shall be submitted to the Commercial Register.

## **Chapter 2**

### **Interrelationships between Members**

#### **Section 79. Partnership Agreement**

The interrelationships between the members of a partnership shall be considered in accordance with the provisions of the partnership agreement. If there are no such provisions, the provisions of Sections 80–88 of this Law shall be applicable.

#### **Section 80. Reimbursement of Expenditures and Losses**

(1) If a member of a partnership, when handling partnership matters, covers necessary expenditures on his or her own account or suffers losses which directly arise from the record-keeping of the partnership or with the risk associated with it, the partnership has an obligation to reimburse such expenditures and losses.

(2) In reimbursing expenditures and losses, a partnership has an obligation also to pay interest at the legal rate, which shall be calculated from the time the expenditures and losses referred to in Paragraph one of this Section were incurred.

#### **Section 81. Duty of Members of a Partnership to Pay Interest**

(1) If a member of a partnership has failed to pay his or her money contribution within a specified period of time, or has not, in a specified period of time, transferred money collected to the cashier's office of the partnership, or also has taken money from the cashier's office of the partnership without authorisation, he or she has the duty to pay interest at the legal rate from the day when the payment of the contribution had to be made or when the money was to be transferred, or also when the money was taken without authorisation.

(2) The payment of interest does not release the member of a partnership from a duty to reimburse losses.

#### **Section 82. Prohibition of Competition**

(1) A member of a partnership may not, without the consent of the rest of the members, conclude transactions in the sector of commercial activities of the partnership or be a member with full liability in another partnership which performs the same commercial activities.

(2) Consent to participation in the other partnership referred to in Paragraph one of this Section, shall be deemed to have been given if, when the partnership was founded, the rest of the members had known of such participation in another partnership and they did not specifically object to it.

(3) If a member of the partnership violates the provisions in Paragraph one of this Section, the partnership has the right to request reimbursement of losses or the recognition of the relevant transactions as concluded in the name of the partnership, and the income gained or the right to claim such be transferred to the partnership. The rest of the members of the partnership shall decide in respect of bringing such actions.

(4) The statute of limitation period for claims referred to in Paragraph three of this Law shall be three months from the day when the rest of the members of the partnership discovered about the violation against the prohibition of competition, but not later than within five years from the day of the commission of the violation.



### **Section 83. Management of a Partnership**

- (1) All members of a partnership have a right and a duty to participate in the management of the partnership.
- (2) If, in accordance with the partnership agreement, the management of the partnership is entrusted to one member of the partnership or to several members of the partnership (managers), the rest of the members shall not participate in the management of the partnership.
- (3) If the management of the partnership is entrusted to all or several members, then each of them has the right to act individually. Individual action shall not be allowed if another manager objects to it.
- (4) If it is specified in the partnership agreement that members, to whom the management of the partnership has been entrusted, may act only jointly, for each transaction the consent of all the managers shall be necessary, unless a risk of delay exists.

### **Section 84. Scope of Management Powers**

- (1) The scope of partnership management powers shall include any actions, which are associated with the usual commercial activities performed by the partnership.
- (2) The consent of all the members of a partnership shall be necessary for actions, which exceed the usual commercial activities performed by the partnership.
- (3) A procuracy may be issued only with the consent of all the managers of a partnership, unless a risk of delay exists. The procuracy may be revoked by any manager of a partnership.

### **Section 85. Revocation of Management Powers**

- (1) The partnership management powers of a member may be revoked by an adjudication of a court on the basis of an action by the rest of the members, if there is good cause for it.
- (2) A gross violation in the performance of duties as well as an inability to properly conduct the management of the partnership shall be especially considered to be good cause.

### **Section 86. Control Rights of Members**

- (1) All members of a partnership at any time may ascertain the course of partnership matters, become acquainted with the accounting and other documents of the partnership, as well as prepare for themselves a report regarding the state of partnership property, balance sheets and annual accounts.
- (2) Agreements, which are in contradiction to Paragraph one of this Section shall be void.

### **Section 87. Taking of Decisions**

- (1) To take a decision, the consent of all the members of the partnership who have the right to take the relevant decision shall be necessary.
- (2) If a partnership agreement specifies that a decision shall be taken by a majority of votes, then, in case of doubt, a majority shall be determined according to the number of members in the partnership.

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## **Section 88. Profits and Losses**

(1) The profits and losses of a partnership shall be specified at the end of every accounting year, based upon the annual accounts of the partnership, which has been approved by the members of the partnership.

(2) The profits and losses of a partnership shall be divided between members in proportion to their contribution (capital shares) in the partnership. The calculated profit for each member of the partnership shall be added to his or her contribution (capital shares), on the other hand, in the case of losses, his or her contributions (capital shares) shall be reduced by the amount of calculated loss.

(3) If a member of a partnership, up to the division of profits, has not paid in his or her contribution, which he or she should have paid in accordance with the partnership agreement, the contribution together with interest shall be withheld from the share of the profit, which would be due to the member.

(4) A member of a partnership may request the payment of his or her share of the profit if it does not harm the partnership and his or her contribution (capital share) have not reduced.

[14 February 2002]

## **Chapter 3**

### **Relations of Members of a Partnership with Third Persons**

#### **Section 89. Existence of a Partnership in Relation to Third Persons**

(1) A partnership has an on-going relationship with third persons from the time it is recorded in the Commercial Register.

(2) If a partnership has concluded its transactions already prior to its being recorded in the Commercial Register, the partnership shall be deemed to have existed from the time of the conclusion of the transaction.

(3) An agreement regarding the fact that a partnership shall be deemed to exist at a later time shall be void as to third persons.

#### **Section 90. Legal Status of a Partnership**

(1) A partnership, utilising its firm name, may acquire rights and assume obligations, acquire property and other rights pertaining to property, as well as be a plaintiff and defendant in a court.

(2) Collection on the property of a partnership may be commenced only after an adjudication of a court in a matter in which the defendant is the partnership.

#### **Section 91. Representation of a Partnership**

(1) All members of a partnership have the right to represent the partnership in relations with third persons, unless they have been excluded from representation by the partnership agreement.

(2) A partnership agreement may specify that all or several members of the partnership are entitled to represent the partnership only jointly (joint representation). These members may authorise one member or several members from among themselves to conclude specific transactions or specific types of transactions. The intent of a third person shall be deemed to be a relation expressed as to the partnership if it is expressed to at least one of its members who is entitled to represent the partnership.

(3) A partnership agreement may specify that the members of the partnership are entitled to represent the partnership only jointly with a procurist. In such case, the second and third sentences of Paragraph two of this Section shall be applied accordingly.

(4) Application for recording in the Commercial Register of the exclusion of a member of a partnership from representation, the specification of joint representation in accordance with the provisions of Paragraphs two and three of this Section, as well as any other changes in the representation authorisations of the members of the partnership shall be notified for recording in the Commercial Register. It is the duty of all members of the partnership to sign these applications.

## **Section 92. Scope of Representations**

(1) The representation by members of a partnership shall apply to all transactions and other lawful activities, including the alienation and encumbering of immovable property with rights pertaining to property, as well as the issuing and revocation of a procuration.

(2) Restrictions on the scope of representations shall not be binding on third persons.

(3) The provisions of Paragraph two of this Section shall specially apply to such restrictions on the scope of representation as in conformity with representation shall be conducted:

1) in relation to specific transactions or specific types of transactions;

2) the existence of certain circumstances; or

3) for a specific period or in a specific geographical territory.

(4) Joint representation, if it is registered with the Commercial Register, shall not be deemed to be a restriction of the scope of representation.

(5) Restrictions on the scope of representation in relation to one of several branches of a partnership undertaking (branch representation) shall be in effect in relation to third persons only if these branches have a different firm name recorded in the Commercial Register.

## **Section 93. Revocation of Representation**

(1) The representation of a member of a partnership, on the basis of a relevant action by the rest of the members, may be revoked by an adjudication of a court, if there is good cause for it.

(2) A gross violation in the performance of duties as well as an inability to properly perform representation of the partnership shall be especially considered to be good cause.

## **Section 94. Personal Liability of Members of a Partnership**

(1) Members of a partnership shall be personally liable for the obligations of the partnership with all of their property as joint debtors.

(2) Agreements, which are in contradiction to Paragraph one of this Section, shall be void as to third persons.

## **Section 95. Objections of Members of a Partnership**

(1) If an action is brought against a member of a partnership regarding fulfilment of the obligations of the partnership, he or she has a right to raise objections not associated with himself or herself only to such an extent as the partnership could raise them.

(2) A member of a partnership may refuse to satisfy a claim by a creditor, while:

- 1) the partnership has a right to contest the transaction which is the basis of the obligation of the partnership; or
- 2) the creditor may satisfy their claim by an offset in respect of the fulfilment of the obligation of the partnership.
- (3) On the basis of an adjudication which has come into legal effect in a matter, in which the defendant is only the partnership, collection may not be made against the property of a member of the partnership.

#### **Section 96. Liability of a New Member of a Partnership**

- (1) A member of a partnership, who joins an already existing partnership, shall be solidarily liable with rest of the members of the partnership in accordance with the provisions of Paragraphs 94 and 95 of this Law also regarding those obligations of the partnership which were incurred before he or she joined the partnership.
- (2) Agreements, which are in contradiction to Paragraph one of this Section, shall be void as to third persons.

### **Chapter 4 Termination of a Partnership and the Withdrawal of a Member of a Partnership**

#### **Section 97. Basis for the Termination of a Partnership and the Withdrawal of a Member of a Partnership**

- (1) A partnership shall be terminated:
  - 1) when the time for which it was founded has ended;
  - 2) by a decision of the members of the partnership;
  - 3) with the commencement of bankruptcy procedures; or
  - 4) by an adjudication of a court.
- (2) If it is not specified otherwise in the partnership agreement, the basis of a withdrawal of a member of a partnership shall be:
  - 1) the death of the member of the partnership;
  - 2) the declaration of the member of the partnership as insolvent;
  - 3) a notice of termination from the member of the partnership;
  - 4) the expulsion of the member from the partnership; or
  - 5) other reasons referred to in the partnership agreement.

#### **Section 98. Termination of a Partnership by an Adjudication of a Court**

- (1) A partnership founded for a specific time may be terminated by an adjudication of a court before the end of the specific time, as well as a partnership founded for a specific time on the basis of a relevant cause of action by a member of the partnership if there is good cause therefor.
- (2) Good cause shall exist especially when another member of the partnership in bad faith or by allowing gross negligence violates significant duties imposed upon him or her by the partnership agreement or such duties have become impossible to fulfil.
- (3) Agreements which revoke or restrict rights to request the termination of a partnership shall be void.

### **Section 99. Notice of Termination by a Member of a Partnership**

(1) If a partnership is founded for an indefinite time, a member of the partnership has a right to withdraw from the partnership, providing a notice of termination of the partnership agreement not later than six months prior to the end of the accounting year.

(2) In the final accounting between the partnership and the member who is withdrawing the financial status of the partnership at the end of the accounting year referred to in Paragraph one of this Section shall be taken into account.

### **Section 100. Partnerships Founded for an Indefinite Time**

Within the meaning of Paragraphs 98 and 99 of this law, partnerships which are founded for an indefinite time shall also be partnerships which:

- 1) were founded until the death of a member of the partnership; and
- 2) upon the expiration of the time for which it was founded, it tacitly is continued.

### **Section 101. Expulsion of a Member of a Partnership Pursuant to a Request of His or Her Creditor**

If a creditor of a member of a partnership, within a period of six months, is unable to satisfy his or her claim for collection against the property of the member of a partnership, he or she has the right to bring an action in court for the expulsion of the member of the partnership from the partnership and the satisfaction of his or her claim from the sum which would have been paid out to the member of the partnership, if at the time of the bringing of an action the partnership had been terminated.

### **Section 102. Expulsion of a Member of a Partnership Pursuant to a Request of the Other Members of the Partnership**

(1) In cases, when the rights which, in accordance with the provisions of Section 98 of this Law, allow an action to be brought in court regarding the termination of the partnership have arisen for the members of a partnership, they may instead request the court to expel the member at fault from the partnership.

(2) In the final accounting between the partnership and the member who has been expelled, the financial status of the partnership at the time of the bringing of the action referred to in Paragraph one of this Section shall be taken into account.

### **Section 103. Transfer of an Undertaking of a Partnership to Another Member of the Partnership**

If there are two members in a partnership, and one of them withdraws from the partnership in accordance with the provisions of Paragraphs 99, 101 and 102 of this Law, the partnership shall be terminated without liquidation and the undertaking of the partnership shall be transferred to the other member of the partnership, who has a duty to declare himself or herself for recording in the Commercial Register as an individual merchant, accordingly declaring the deletion of the partnership from the Commercial Register.

#### **Section 104. Heirs Joining a Partnership**

(1) In the case of the death of a member of a partnership, his or her heir has the right to become a member of the partnership, if this is specified in the partnership agreement or if all members of the partnership agree to it.

(2) If it is specified in a partnership agreement that only one of the heirs may become a member of the partnership, but the way in which this person shall be selected is not specified, the member of the partnership may appoint this person by a will.

(3) If with the consent of the rest of the members of a partnership, the heir or the heirs are granted the status of a limited partner, it shall be deemed that the partnership has been transformed into a limited partnership, and shall be declared for recording in the Commercial Register. An heir shall acquire the right to such share of the profits as had the deceased member. The partnership agreement may specify the reduction of the profit share due to the heir, if the profit share due the deceased member had been increased in accordance with the partnership agreement, taking into account his or her activities or greater responsibility.

(4) If an heir does not wish to become a member of the partnership or cannot, or the other members do not agree to it, the heir has a right to receive that which in conformity with his or her part of the estate would have been due to the deceased member of the partnership (estate-leaver) upon final accounting if the partnership were liquidated at the time of the opening of the succession.

(5) An heir may submit an application to a partnership regarding joining the partnership within three months after the time of the opening of the succession.

(6) In the case when an heir who has joined a partnership withdraws or the partnership is terminated, or also in the case when he or she has been granted the status of a limited partner within the term specified in Paragraph five of this Section, the heir shall be liable according to general procedures for the obligations of the partnership which have been incurred prior to his or her withdrawal, the termination of the partnership or the granting of the status of a limited partner.

[14 February 2002]

#### **Section 105. Application for the Termination of a Partnership and the Recording of the Withdrawal of a Member of a Partnership in the Commercial Register**

(1) The termination of a partnership shall be declared for recording in the Commercial Register. It is the duty of all members of a partnership to sign such an application.

(2) If the partnership is terminated with the commencement of bankruptcy procedures, the termination of the partnership shall be recorded in the Commercial Register on the basis of an adjudication of a court.

(3) The provisions of Paragraph one of this Section shall be accordingly applied for the application regarding the recording in the Commercial Register of the withdrawal of a member of a partnership. The expulsion of a member of a partnership from the partnership shall be recorded in the Commercial Register on the basis of an adjudication of a court.

(4) If the basis for the termination of a partnership or the withdrawal of a member of a partnership is the death of a member of the partnership, it is the duty of all the other members of the partnership to sign the application for the recording in the Commercial Register of the termination of the partnership or the withdrawal of a member of a partnership.

## **Chapter 5**

### **Liquidation of a Partnership**

#### **Section 106. Necessity for the Liquidation of a Partnership**

Liquidation of a partnership occurs after the termination of the partnership, except in cases, when a different way of final accounting is specified in the partnership agreement, or also the partnership has been declared insolvent.

#### **Section 107. Recording of a Liquidator in the Commercial Register**

(1) Liquidators shall be declared for recording in the Commercial Register. All members of a partnership have a duty to sign such an application. Similarly, any changes in the composition of liquidators or in the scope of their representations shall be declared for recording in the Commercial Register.

(2) In the case of the death of a member of a partnership, the applications referred to in Paragraph one of this Section shall be signed by the other members of the partnership.

(3) Notarised samples of the signatures of the liquidators of a partnership shall be submitted to the Commercial Register Office.

#### **Section 108. Several Liquidators**

(1) If a liquidation is conducted by several liquidators, they have the right to perform the activities associated with the liquidation only jointly, if it is not specified that the liquidators may perform these activities separately. Such a provision shall be declared for recording in the Commercial Register.

(2) Liquidators may authorise one or more liquidators from among themselves to conclude transactions or specific types of transactions. The intent of a third person shall be deemed to be expressed in relation to the partnership if it has been expressed to at least one liquidator.

#### **Section 109. Void Restrictions on Powers of a Liquidator**

Restrictions on the powers of a liquidator shall not be void as to third persons.

#### **Section 110. Instructions from Members of a Partnership**

A liquidator has a duty to comply with such instructions which, in relation to the management of the partnership, have been adopted unanimously by the members of the partnership.

#### **Section 111. Signature of a Liquidator**

A liquidator shall sign by adding his or her signature and an indication regarding the liquidation of the partnership to the firm name of the partnership.

#### **Section 112. Division of Partnership Property**

(1) After the settlement of debts, the liquidator shall divide the remainder of the property of a partnership among the members of the partnership in conformity with the amount of their invested (capital) shares as specified in the closing balance sheet of the partnership.

(2) Money, which is not necessary in the course of the liquidation, shall be divided conditionally among the members of the partnership. The funds necessary to cover its obligations, the terms of fulfilment or conditions of which have not come into effect, and to cover disputed obligations, as well as the securing of such sums as are due to the members of the partnership at the final accounting shall be retained.

(3) If a dispute should arise among the members of a partnership regarding the division of the property of the partnership, the liquidator has a duty to postpone the division until the dispute is resolved.

### **Section 113. Other Types of Accounting**

If the members of a partnership have agreed to another type of final accounting, in relation to third persons, insofar as there still exists undivided partnership property, the relevant provisions of this Chapter shall be applicable.

### **Section 114. Legal Relations of Members of a Partnership**

Up to the end of the liquidation, the provisions of Chapters 2 and 3 of this Division shall be applicable to the existing mutual relations of the members of a partnership and the relations of the partnership to third persons, insofar as it is not specified otherwise in this Chapter or does not derive otherwise from the purposes of the liquidation.

### **Section 115. Application regarding the Deletion of the Partnership from the Commercial Register**

(1) After the end of liquidation, it is the duty of all the liquidators of the partnership to declare the deletion of the partnership from the Commercial Register.

(2) The accounting records and other documents of the partnership shall be given for preservation in Latvia to one of the members of the partnership or to a third person or to the State Archives.

(3) The members of the partnership and their heirs retain the right to examine the accounting records and other documents of the partnership, as well as to utilise them.

[14 February 2002]

## **Chapter 6**

### **Statute of Limitations and Restrictions on Liability**

#### **Section 116. Claims Against a Member of a Partnership**

(1) Claims arising from the obligations of a partnership against a member of the partnership shall have a statute of limitations period of three years after the termination of the partnership, if the claim against the partnership is not subject to a shorter statute of limitations period.

(2) The statute of limitations period shall commence from the day that the termination of a partnership is recorded in the Commercial Register.

(3) If the terms of fulfilment or conditions of the obligations of a partnership have come into effect after the termination of a partnership has been recorded in the Commercial Register, the statute of limitations period of a claim of a creditor shall commence at the time of the coming into effect of the terms of fulfilment or conditions of the obligations.



(4) Interruption of the statute of limitations period in relation to a terminated partnership shall be in effect also in relation to those members of the partnership who participated in it at the time of the termination.

### **Section 117. Liability of Such a Member of a Partnership as Who Withdraws from the Partnership**

If a member of a partnership withdraws from the partnership, he or she shall be liable only for such obligations of the partnership as were incurred prior to his or her joining and the terms of fulfilment or conditions of which came into effect prior to his or her withdrawal, or within a period of five years after withdrawal, counting from the day when the withdrawal of the member of the partnership was recorded in the Commercial Register.

## **Division X Limited Partnerships**

[14 February 2002]

### **Section 118. Definition of a Limited Partnership**

(1) A limited partnership is a partnership (hereinafter in this Division – partnership), the purpose of which is the performance of commercial activities utilising a joint firm name, and in which two or more persons (members) have agreed on the basis of a partnership agreement, if the liability of at least one of the members of the partnership (limited partner) in relation to the creditors of the partnership is limited to the amount of their contribution, but the liability of the other personal liability members of the partnership (general partners) is not limited.

(2) The provisions of this Law regarding general partnerships shall be applied to a limited partnership, if it is not specified otherwise in this Division.

[14 February 2002]

### **Section 119. Application for Registration in the Commercial Register**

(1) In an application to register a partnership in the Commercial Register in addition to the information referred to in Section 78 of this Law the following shall be indicated for every limited partner:

1) their given name, surname, personal identity number and residential address, but for legal persons – name, registration number and legal address; and

2) the amount of contribution and the total contributions of the limited partner.

(2) The provisions of this Section shall be applied accordingly in the case, when a limited partner joins an existing partnership or also withdraws from such.

[14 February 2002]

### **Section 120. Relationships between Members of a Partnership**

If the partnership agreement does not specify otherwise, the provisions of Sections 121–125 of this Law shall be applied to the relationships between members of a partnership.

### **Section 121. Management of a Partnership**

(1) Limited partners do not have the right to participate in the management of the partnership.

(2) Limited partners do not have the right to object to the actions of a general partner, except for cases when these actions exceed the scope of the usual commercial activities of the partnership.

[14 February 2002]

### **Section 122. Prohibition of Competition**

The provisions of Section 82 of this Law shall not be applied to limited partners, except for cases when pursuant to the partnership agreement they are granted rights to manage the partnership or also they have some other significant influence on the management of the partnership.

[14 February 2002]

### **Section 123. Rights of Control**

(1) Limited partners have the right to request at any time a written report regarding the status of the property of the partnership and to verify its accuracy and to examine the accounting and other documents of the partnership.

(2) On the basis of a relevant action brought by a limited partner, a court may request from the partnership a written report regarding the status of the property of the partnership (copies of the balance sheet and annual accounts), as well as the accounting and other documents of the partnership, if there is an important reason for such.

[14 February 2002]

### **Section 124. Profits and Losses**

(1) In relation to limited partners, the provisions of Section 88, Paragraphs one, two and three of this Law shall be applied.

(2) The profit share of the partnership, which is due to limited partners, shall be included in their capital share until it reaches the specified amount of contribution.

(3) Limited partners shall participate in losses only to the amount of their capital shares and their still unpaid contribution.

[14 February 2002]

### **Section 125. Payment of Profit Share**

(1) Limited partners may request the payment of the profit share due them, except in the case when their capital share in relation to the specified amount of contribution has been reduced as a result of losses, or also would be reduced as a result of the payment of the profit share due them.

(2) Limited partners do not have a duty to return the profit share paid to them in relation to further losses of the partnership.

[14 February 2002]

### **Section 126. Representation of a Partnership**

Limited partners do not have the right to represent the partnership in relation to third persons.

[14 February 2002]

### **Section 127. Liability of Limited Partners**

Limited partners shall be liable, to the creditors of the partnership, in the amount of their contribution up to the making of the contribution. Such liability shall be excluded as soon as the contribution has been performed.

[14 February 2002]

### **Section 128. Amount of Liability of Limited Partners**

(1) After the recording of the partnership in the Commercial Register, the amount of the liability of limited partners in relation to the creditors of the partnership shall be determined in conformity with the amount of their contribution recorded in the Commercial Register.

(2) An agreement of members of a partnership, according to which a limited partner is released from the making of a contribution, or the making of a contribution is postponed shall be void as to creditors.

(3) Insofar as the contribution of a limited partner has been repaid to them, such in relation to the creditors of a partnership shall be deemed to have not been made. This provision is in force also if a profit share has been paid to the limited partner at a time when their contribution (capital share) in relation to the amount of contribution made has been reduced as a result of losses, or also insofar as their contribution (capital share) in relation to the specified amount of contribution has been reduced as a result of the payment of a profit share.

[14 February 2002]

### **Section 129. Liability of a Limited Partner, When Joining a Partnership**

(1) If a limited partner joins an existing partnership, they shall be liable for those obligations of the partnership pursuant to the provisions of Sections 127 and 128 of this Law which were created before they joined.

(2) Agreements which are in contradiction to the provisions of Paragraph one of this Section shall be void as to third persons.

[14 February 2002]

### **Section 130. Reduction of Contributions**

The reduction of the contribution of a limited partner, while it has not been recorded in the Commercial Register, shall be void as to creditors. A reduction in the contribution of the limited partner does not apply to creditors the claims of which have arisen prior to the reduction of contribution being recorded in the Commercial Register.

[14 February 2002]

### **Section 131. Application for Recording Change of Contribution in the Commercial Register**

An increase or decrease of a contribution shall be declared for recording in the Commercial Register. It is the duty of all members of the partnership to sign such an application.

**Section 132. Liability of Limited Partners Prior to the Recording of the Partnership in the Commercial Register**

(1) If a partnership has commenced its transactions prior to its recording in the Commercial Register, each limited partner who has consented to the commencement of transactions, shall be liable as a general partner in respect of the obligations of the partnership which were incurred prior to the recording of the partnership in the Commercial Register, except in cases when the creditor knew of their participation in the partnership as a limited partner.

(2) If a limited partner joins an existing partnership, the provisions of Paragraph one of this Section shall be correspondingly applied to those obligations of the partnership which were incurred in the period between their joining and their recording in the Commercial Register as a limited partner.

[14 February 2002]

**Section 133. Death of a Limited Partner**

In the case of the death of a limited partner, his or her heirs continue to participate in the partnership if the partnership agreement does not specify otherwise.

[14 February 2002]

**Division XI  
Capital Companies**

**Chapter 1  
General Provisions**

**Section 134. Definition of a Capital Company**

(1) A capital company (hereinafter in this Division – company) is a commercial company, the equity capital of which consists of the total sum of the par value of equity capital shares or stock (hereinafter in this Division – shares).

(2) A capital company is a limited liability company or a stock company.

(3) A limited liability company is a private company, the shares of which are not publicly tradable objects.

(4) A stock company is a public company, the shares (stock) of which may be publicly tradable objects.

**Section 135. Legal Status of a Company**

(1) A company is a legal person.

(2) A company shall be deemed to be founded and shall acquire the status of a legal person from the date when it is recorded in the Commercial Register.

**Section 136. Shareholders**

(1) A shareholder is a person who owns one or several shares in a company.

(2) Founders shall acquire the status of shareholders from the date when the company is recorded in the Commercial Register. Other persons shall acquire the status of shareholders from the date when they are registered in the register of the company's shareholders (stockholders), if it is not specified otherwise by law.

(3) Within the scope of this Division, the concept of “shareholder” shall mean a shareholder of a limited liability company and a stockholder of a stock company.

### **Section 137. Limitations of Liability of a Company**

- (1) A company shall be liable for its obligations with the whole of its property.
- (2) A company shall not be liable for the obligations of its shareholders.
- (3) Shareholders shall not be liable for the obligations of the company.

### **Section 138. A Company with Supplemental Liability**

- (1) A company may be founded as a company with supplemental liability, in which at least one of the shareholders is liable personally with the whole of their property for the obligations of the company.
- (2) In the documents of incorporation of a company with supplemental liability, shall be indicated all the persons who are liable personally for the obligations of the company with the whole of their property. These persons shall be recorded in the Commercial Register.

### **Section 139. Legal Address of a Company**

The legal address of a company shall be the address where the management of the company (headquarters of the company) is located. The founders or the board of directors shall declare for recording in the Commercial Register the legal address and changes to it.

## **Chapter 2 Founding of Companies**

### **Section 140. Founders of a Company**

- (1) A founder of a company is a natural or legal person, who has signed the founding memorandum of association and the articles of association of the company, or in whose name these documents have been signed.
- (2) A company may be founded by one or several founders.

### **Section 141. Procedures for the Founding of a Company**

- (1) In founding a company, the founders shall perform the following activities:
  - 1) prepare and sign the documents of incorporation of the company in accordance with Section 142 of this Law;
  - 2) set up the administrative institutions of the company and appoint an auditor;
  - 3) pay up the equity capital in the specified amount, organise the deposit of the monetary payments of the founders into a bank, and receive a notice regarding the making of the contribution;
  - 4) organise the valuation of material contributions (if material contributions are made);
  - 5) pay the State fee for recording in the Commercial Register and the payment for the publication concerning the registration in the Register; and
  - 6) submit an application to the Commercial Register Office.
- (2) The founders may request an examination of the founding of the company in the cases and according to the procedures referred to in Section 150 of this Law.

(3) If it not otherwise provided for in the memorandum of association, the founders shall jointly perform the activities that are associated with the founding of the company.

#### **Section 142. Documents of Incorporation of a Company**

(1) The memorandum of association and the articles of association are the documents of incorporation of a company.

(2) The conditions in the documents of incorporation may vary from the provisions of the law only when the law explicitly permits such variance.

#### **Section 143. Memorandum of Association**

(1) In the memorandum of association shall be indicated:

1) information regarding the founders:

a) for natural persons – given name, surname, personal identity number and residential address,

b) for legal persons – name, registration number, legal address, the given name, surname, personal identity number, office and residential address of the representative who signs the memorandum of association in the name of the legal persons;

2) the firm name of the company;

3) the amount of the equity capital of the company, the number of shares and par value;

4) the amount of the equity capital each founder has subscribed to and the amount of equity capital to be paid-up before registration, the procedures and time periods for payment;

5) the number of shares due to each founder according to the part of the equity capital such founder has subscribed to;

6) the number of and the par value total of those shares which, when founding the company, are to be paid-up with material contributions, indicating each item of the material contribution, and the given name, surname, personal identity number and residential address of those persons who have assumed obligations to make property contributions;

7) the allowed amount of founding costs and the procedures for covering these costs;

8) any special duties, rights or advantages which are granted during the period of the founding of the company to a person who has taken part in the founding of the company;

9) the given names, surnames, personal identity numbers and residential addresses of the members of the board of directors of the company;

10) the given names, surnames, personal identity numbers and residential addresses of members of the company council (if the company has a council);

11) the given name, surname, personal identity number and residential address of the auditor; and

12) other provisions which the founders consider to be significant and which are not in contradiction to law.

(2) The memorandum of association shall be signed by all the founders. The signatures of the founders shall be publicly verified by a notary or a parish court

(3) The memorandum of association shall be in effect until the obligations specified therein are appropriately implemented and until the expiration of the time period of the authorisations of the council, the board of directors and the auditor of the company, in accordance with the provisions of Section 145, Paragraph two of this Law.

(4) [14 February 2002]

(5) If a company is established by one founder, in the place of a memorandum of association a decision regarding the founding of a company shall be prepared and signed. The provisions of this Law which regulate memoranda of association shall also apply to the decision regarding the founding of a company.

[14 February 2002]

#### **Section 144. Articles of Association**

(1) In the articles of association of the company shall be indicated:

- 1) the firm name of the company;
- 2) types of commercial activities;
- 3) the time period or goals of the activities of the company (if the company is founded for a specific period of time or to reach a specific goal);
- 4) the amount of the equity capital, the number of shares and par value;
- 5) [14 February 2002]
- 6) the number of members of the board of directors of the company, especially indicating the rights of members of the board of directors to represent the company separately or jointly;
- 7) the number of council members of the company (if the company has provided for a council);
- 8) special provisions for the alienation of shares (if such are provided for); and
- 9) other provisions which the founders consider to be significant and which are not in contradiction to law.

(2) In addition to information referred to in Paragraph one of this Section, the articles of association of stock companies shall indicate:

- 1) if the company has different categories of stock – the categories of stock (indicating the rights which arise from each category of stock) and the number and the par value of each category of stock;
- 2) whether the stock is registered stock or bearer stock and if the articles of association provide that registered stock can be converted into bearer stock or *vice versa* – the provisions for such conversions; and
- 3) whether the stock is in printed form or dematerialised and, if the articles of association provide for the conversion of printed form stock into dematerialised stock and *vice versa* – the provisions for such conversions.

(3) When founding the company, the articles of association shall be signed by all founders, indicating the date of signing. The signatures of the founders shall be publicly verified by a notary or a parish court

[14 February 2002]

#### **Section 145. Establishment of the Administrative Institutions of a Company and the Election of an Auditor**

(1) The restrictions specified by law shall be applicable to the members of the board of directors and council and the auditor, who is appointed in the memorandum of association.

(2) The time period of authorisation of the board of directors, the council and the auditor which were formed until the registration of the company shall expire accordingly when the new board of directors and council are formed and a new auditor elected at the first regular meeting of shareholders.

**Section 146. Equity Capital Subscribed To and Paid-up until the Submission of the Application for Registration**

(1) Until the submission of the application for registration to the Commercial Register Office, the founders shall perform their obligations as provided for in the memorandum of association in relation to the equity capital as subscribed to and payable until registration, if the memorandum of association does not provide for an earlier time period for the payment of the equity capital.

(2) The equity capital of a limited liability company shall be 50 per cent paid-up by the submission of the application for registration. The remaining part shall be paid within a period of one year from the day when the company is recorded in the Commercial Register.

(3) Up to the submission of the application for registration, all of the equity capital of a stock company specified in the memorandum of association shall be subscribed. Up to the submission of the application for registration the amount of paid-up equity capital may not be less than the minimum equity capital specified in Section 225 of this Law, or less than 25 per cent of the subscribed equity capital.

(4) Up to the submission of the application for registration, the equity capital of a stock company shall be paid-up only in money.

[14 February 2002]

**Section 147. Procedures for the Payment of Equity Capital when Founding a Company**

(1) Within the time period specified by the memorandum of association, the founders shall pay up all the amount of the equity capital specified in the memorandum of association as payable up to the submission of the application for registration.

(2) The founders shall open a bank account in the name of the company to be founded, organise the deposit of money into it and receive a notice from the bank, addressed to the Commercial Register Office, which confirms the amount of equity capital paid-up to founding.

(3) If the founders fail to fulfil the provisions referred to in Paragraph one of this Section, they shall suspend the founding of the company and shall act in accordance with Paragraph four of this Section, or they shall enter into a new memorandum of association and make the necessary changes to the articles of association.

(4) If a company is not founded, the founders shall withdraw the sum deposited in the name of the company to be founded and divide it according to their contributions, except for amounts which, in accordance with the memorandum of association, have been used for the needs of founding the company. The costs of founding a company shall be covered in proportion to the amount of subscribed equity capital of each founder, if the memorandum of association does not provide for different procedures to cover the costs of founding the company.

(5) In cases when a company is not founded, disputes regarding the amounts used for the needs of founding the company shall be decided by a court.

[14 February 2002]

**Section 148. Valuation of Material Contributions**

If, when founding a company, the equity capital or part of it is paid-up by a property contribution, the founders shall organise its valuation in accordance with the provisions of Section 154 of this Law.



### **Section 149. Application for Recording in the Commercial Register**

- (1) The founders shall submit an application for recording in the Commercial Register to the Commercial Register Office within a period of six months from the date when the memorandum of association was signed.
- (2) All the founders shall sign the application.
- (3) The application shall have appended to it:
  - 1) the documents of incorporation;
  - 2) a notice from a bank regarding the payment the equity capital (if the equity capital or part of it is paid-up in money);
  - 3) a document which certifies the value of each property contribution (if property contributions are made);
  - 4) a written acceptance from each council member to be a council member (if the company has a council);
  - 5) a written acceptance from each member of the board of directors to be a member of the board of directors;
  - 6) notarised sample signatures of the members of the board of directors; and
  - 7) a notice from the board of directors regarding the legal address of the company.

[14 February 2002]

### **Section 150. Examination of the Founding of a Company**

- (1) Shareholders who represent not less than twentieth of the equity capital with voting rights have the right, within a period of one year from the date of registration of the company, to request that the Commercial Register Office to appoint one or several experts to perform an examination of the founding of the company.
  - (2) The experts shall complete a report, in three copies, regarding the examination performed, of which one copy shall be submitted to the Commercial Register Office, the second – to the company, but the third – to the shareholders who requested the examination.
  - (3) The shareholders who requested the examination shall cover the costs of the examination.
  - (4) If it is determined in the examination of the founding of a company that the founders have not performed their duties in good faith, the founders shall compensate the costs of the examination of the founding of the company to the shareholders referred to in Paragraph three of this Section. Disputes regarding expenditures which are associated with the examination of the founding of a company shall be decided by a court
  - (5) [14 February 2002]
- [14 February 2002]

## **Chapter 3 Equity Capital of a Company**

### **Section 151. Payment of Equity Capital and Types of Payments**

- (1) Equity capital shall be paid-up with money or property contributions.
- (2) Equity capital shall be expressed in whole lati.
- (3) The type of payment shall be determined by the memorandum of association or in the regulations for the increase of the equity capital.
- (4) Contributed property shall become the property of the company.

## **Section 152. Payment of Equity Capital with Money**

(1) If property contributions are not provided for in the memorandum of association or in the regulations for the increase of the equity capital, the equity capital shall be paid-up only with money.

(2) The contribution specified in Paragraph one of this Section may not be substituted with a property contribution.

## **Section 153. Property Contributions**

(1) Items of property contributions may be tangible or intangible property valued in terms of money, which may be utilised in the commercial activities of a company, except for property which in accordance with law may not be the subject of collection.

(2) Obligations to provide services or to perform work, unanticipated profits or anticipated activities for the company, or also expected salary, honoraria, dividends and similar payments, which a founder or shareholder may receive from the company, may not be property contributions.

(3) Property contributions may not be made in parts.

(4) A person, who makes a property contribution, shall inform of any rights to the item of property contribution by third persons. If the person fails to fulfil this requirement, they shall pay up their shares in cash.

(5) If the value of an item of a property contribution has decreased up to the recording of the company in the Commercial Register, the person who has contributed it shall cover this decrease in cash.

(6) A written receipt shall be issued by the company regarding the making of a property contribution.

## **Section 154. Valuation of Property Contributions**

(1) The valuation of property contributions and an opinion regarding them shall be made by an expert who is included in the Commercial Register Office approved list. Shareholders may themselves make an valuation of property contributions only in the cases referred to in Paragraph two of this Section.

(2) If, when founding a limited liability company, the total value of property contributions does not exceed 4000 lati, and the property contributions together are less than one-half of the equity capital of the company, the valuation of the property contributions and the submission of an opinion may be made by the founders, but in the case when the equity capital is being increased – by the shareholders. In this case, all the founders or shareholders shall sign the opinion.

(3) The property contributions shall be valued according to the usual value of the relevant property or rights.

(4) An opinion regarding the valuation of a property contribution shall include a description of each contribution item, indicate the ownership of the item, and the method utilised for the valuation of each contribution, and includes an opinion regarding the conformity of the items of property contribution for the types of commercial activities of the company. If the valuation is made by the founders or shareholders, the valuation methods for property contributions need not be indicated.

(5) The opinion regarding the valuation of property contributions in a stock company submitted to the Commercial Register Office shall be published in the newspaper *Latvijas Vēstnesis*.

(6) The persons, who performed the valuation, shall be solidarily liable for any losses, which have been incurred with an incorrect valuation of a property contribution.  
[14 February 2002]

#### **Section 155. Payment of Shares**

- (1) It shall be the duty of founders or shareholders to pay up shares according to their par value.
- (2) It may be provided for in the regulations for the increase of the equity capital that, in the case of the equity capital of the company being increased, shareholders shall have to, in addition to the par value, also pay a share premium. The share premium shall be indicated in the regulations for the increase of the equity capital, and it shall not be included in the equity capital.

#### **Section 156. Consequences of Failure to Pay Up Shares within the Time Period**

- (1) If a person fails to pay up the full subscribed price of the shares within the time period for full payment of shares as specified in the memorandum of association or in the regulations for the increase of equity capital, the board of directors shall send him or her a written notice by appropriate means of this. In this notice, shall be indicated the repeated time period for the full payment of shares specified by the board of directors, which may not be shorter than 15 days or longer than 30 days from the date when the notice is sent.
- (2) If the person fails to pay up part of the shares within the time period specified by the board of directors referred to in Paragraph one of this Section, he or she shall forfeit the right to these shares, which shall devolve to the company. When the new owner of the shares has paid-up their sales price, the company shall withhold one-fifth of the sales price and the remainder of the amount shall be paid out to the relevant shareholder.
- (3) It may be provided for in the regulations for the increase of equity capital that, in the case of the non-payment of the full price of the shares, a shareholder shall retain the number of shares which is proportional to his or her paid-up amount, if this is provided for in the articles of association.
- (4) If the amount, which the company gains by selling the shares according to the procedures referred to in Paragraph two of this Section, is less than the amount which has already been paid by the first owner of the shares, the company may request the difference from the first owner of the shares.
- (5) The memorandum of association, as well as the articles of association may specify a penalty for failure to observe the time period for the payment of shares. The amount withheld referred to in Paragraph two of this Section, shall not be deemed to be a penalty within the meaning of this Paragraph.

[14 February 2002]

#### **Section 157. Rights of Several Persons to a Share**

- (1) In a company, one share may be owned by several persons jointly. These persons may utilise the rights arising from this share only by appointing a joint representative.
- (2) The appointed representative shall be recorded in the company register of shareholders.
- (3) Persons who jointly own one share in a company shall be solidarily liable for obligations, which arise from this share.

[14 February 2002]

- Section 158. Mandatory Reserves** [14 February 2002]
- Section 159. Use of the Mandatory Reserves** [14 February 2002]
- Section 160. Other Reserves** [14 February 2002]
- Section 161. Dividends**

(1) [14 February 2002]

(2) Dividends shall be paid to shareholders in proportion to the total of the par value of the shares owned by them.

(3) Dividends shall be calculated and paid out for fully paid-up shares.

(4) Dividends may not be calculated and paid out if it arises from the annual accounts that the own funds of the company is less than the total amount of the equity.

(5) Shareholder dividends shall be calculated once a year. Dividends shall be paid out only in money, based upon a decision regarding the division of profit.

(6) Dividends, which have not been taken out within a period of 10 years, shall devolve to the ownership of the company, except for cases when, pursuant to law, the statute of limitations is deemed to be discontinued or suspended. Interest shall not be paid on dividends, which have not been taken out in time, if this is due to the fault of the shareholder.

(7) A decision of the shareholders of a company that the dividends, even temporarily, are left at the disposal of the company is void.

(8) A company may not request that a shareholder return dividends received, except for cases referred to in Section 162 of this Law.

[14 February 2002]

**Section 162. Return of Unjustified Paid Out Amounts**

(1) If a person has been paid out a dividend, to which or part of which they had no right, and this person, at the time of receipt of the dividend, knew or should have known that the payment was unjustified, it is their duty to return the amount acquired without justification to the company.

(2) Other unjustified paid out amounts, which a shareholder has acquired in good faith, he or she has a duty to repay when it became known to him or her that the payments were not justified. Unjustified paid out amounts, which a shareholder has acquired in bad faith or by gross negligence, he or she has a duty to repay the company. In such case, the shareholder shall compensate the losses, which were incurred by the company as a result of this unjustified payment.

**Chapter 4  
Liability**

**Section 163. Liability for Obligations which have Arisen before the Recording of the Company in the Commercial Register**

(1) A founder who has acted in the name of the company to be founded before the recording of the company in the Commercial Register, shall be liable for obligations which arise from such actions. In the case of actions by several founders, these founders shall be liable solidarily.

(2) Agreements which are in contrary to the provisions of Paragraph one of this Section shall be void as to third persons.

(3) The obligations referred to in Paragraph one of this Section shall devolve to the company, if the board of directors of the company or shareholders who represent not less than one twentieth of the equity capital, do not object, within a period of three months after the recording of the company in the Commercial Register, to the obligation devolving to the company. If such objections are raised, the issue of the devolvement of the obligations shall be decided by a meeting of shareholders. The devolvement of the obligations to the company shall not restrict its rights to request the fulfilment of the obligations by the founder.

(4) If the property of the company is not sufficient to satisfy the claims of creditors of the company, the founders shall be personally solidarily liable to the creditors for obligations of the company, to the extent of that reduction in the property of the company which has occurred because of the obligations which were undertaken by the company to be founded. The statute of limitations time period for such claims is three years from the date when the company was recorded in the Commercial Register.

[14 February 2002]

#### **Section 164. Acquisition of Property from Founders and Shareholders**

(1) If a company, within a period of two years after its recording in the Commercial Register, acquires property from a founder, shareholder or a person with similar material interest (family member, an associated undertaking and the like), the value of which exceeds one twentieth of the equity capital of the company, the transaction, on the basis of which the property was acquired, shall be in effect only after this transaction has been approved by a meeting of shareholders.

(2) The provisions of Paragraph one of this Section shall also apply to cases when the acquisition of property from one of the persons referred to in Paragraph one of this Section has been made repeatedly and when the total amount exceeds the limits referred to in Paragraph one of this Section. In such case, approval by a meeting of shareholders is necessary for the last transaction, as a result of which the limits referred to are exceeded, as well as for every subsequent transaction which the company enters into with this person.

(3) The property referred to in Paragraphs one and two of this Section shall be evaluated in accordance with Section 154 of this Law.

(4) The provisions of Paragraphs one, two and three of this Section shall not apply to cases when the property was acquired at auction, as a transaction on the stock exchange or pursuant to an adjudication of a court.

#### **Section 165. Liability for Submitting False Information**

(1) The founders of a company shall be solidarily liable for such losses caused as a result of false information, which is submitted up to the recording of the company in the Commercial Register.

(2) The members of the board of directors shall be solidarily liable for such losses caused as a result of false information, which is submitted after the recording of the company in the Commercial Register.

(3) For the submission of false information to the Commercial Register, persons shall be held to administrative liability or criminal liability.

## **Section 166. Liability of Founders**

- (1) Founders shall be solidarily liable for losses, incurred by the company and third persons, which occurred during the founding of the company as a result of the founders having acted maliciously or negligently.
- (2) Actions which are in contradiction to law or the memorandum of association shall be in any case deemed to be malicious.
- (3) The founders shall be solidarily liable to the company for any shortages which have been caused if a person is unable to fulfil their share payment obligations, in cases when these founders, in accepting the participation of such person, knew or should have known of the inability of this person to fulfil such obligations.
- (4) The provisions referred to in this Section shall in no way limit the liability which is specified in Section 163 of this Law.
- (5) For the claims referred to in this Section, the statute of limitation period shall be five years from the date of the recording of the company in the Commercial Register.

## **Section 167. Liability of Third Parties for Founding Process Violations**

- (1) A person, who has facilitated the malicious or negligent actions of the founders or has collaborated in them, shall be solidarily liable together with the guilty founders if he or she knew or should have known about the malicious or negligent character of such actions.
- (2) A person on whose account a founder has undertaken an obligation to pay up shares also shall be solidarily liable with the founders. Such person may not rely on not having known of such circumstances, of which the founder knew or should have known.
- (3) For claims referred to in this Section, the statute of limitation period shall be five years from the date of the recording of the company in the Commercial Register.

## **Section 168. Liability for Influencing Members of the Institutions of the Company**

- (1) A person who in bad faith persuades a member of the board of directors or the council, a proctor or a person with a commercial power of attorney to act against the interests of the company or its shareholders shall be liable for any losses incurred as a result of such activities to the company.
- (2) If, in the case referred to in Paragraph one of this Section, there is a basis for members of the board of directors or the council to be held liable in accordance with Section 169 of this Law, they shall be solidarily liable with the person who has utilised his or her influence. If there is a basis for holding a proctor or a person with a commercial power of attorney liable, they shall be solidarily liable with the person who has utilised his or her influence.
- (3) Members of the board of directors and the council, a proctor or a person with a commercial power of attorney shall not be liable in accordance with Paragraph two of this Section if they prove that they were acting as honest and careful managers.
- (4) The provisions referred to in Paragraphs one and two of this Section shall not be applicable if the influence was exerted:
  - 1) by using one's voting rights at a meeting of shareholders; or
  - 2) by lawfully using one's decisive influence in accordance with the Groups of

Companies Law.

[14 February 2002]

### **Section 169. Liability of the Members of the Board of Directors and Council**

(1) Members of the board of directors and council shall perform their duties as would an honest and careful manager.

(2) Members of the board of directors and council shall be solidarily liable for losses that they have caused to the company.

(3) Members of the board of directors and council shall not be liable in accordance with Paragraph two of this Section if they prove that they have acted, as would an honest and careful manager.

(4) Members of the board of directors and council shall not be liable for losses incurred if they have acted in accordance with a lawful decision of a meeting of shareholders. The fact that the council has approved the actions of the board of directors shall not release the members of the board of directors from liability to the company.

[14 February 2002]

### **Section 170. Creditor Claims for the Benefit of a Company**

(1) A creditor of a company who cannot gain satisfaction for their claim against the company may bring an action for the benefit of the company against the persons referred to in Paragraphs 166–169 of this Law, who have incurred losses for the company, but have not compensated them.

(2) Creditors of a company have the right to bring an action, and this right shall not be restricted also in the following cases if:

1) the company has withdrawn its action against the person at fault;

2) a settlement has been entered into; or

3) the losses have occurred in the fulfilment of a decision of the meeting of shareholders or the council.

(3) The claims referred to in this Section may be brought within a period of five years from the date when the right to such claim was created.

[14 February 2002]

### **Section 171. Prohibition of Competition in Relation to Members of the Board of Directors of a Company**

(1) A member of the board of directors, without the acceptance of the council or, if such has not been formed – without the acceptance of the meeting of shareholders, may not:

1) be a general partner in a partnership, or a shareholder with supplemental liability in a capital company which is engaged in the field of commercial activities of the company;

2) conclude transactions in the field of commercial activities of the company in his or her own name or in the name of a third person; and

3) be a member of the board of directors of another company which is engaged in the field of commercial activities of the company, except in cases when the company and the other company are part of the same group of companies.

(2) If a member of the board of directors violates the provisions of Paragraph one of this Section, the company is entitled to request compensation for losses or the recognition of the relevant transactions as such that are concluded in the name of the company and the transfer the income acquired or the right of claim to such to the company.

(3) The statute of limitation period for claims referred to in Paragraph two of this Section shall be three months from the date when the other members of the board of directors or members of the council (if such has been formed) had found out about the violation against

the prohibition of competition, but no more than five years from the day of the committing of the violation.

[14 February 2002]

### **Section 172. Bringing an Action by a Company**

(1) A company may bring an action against the founders, members of the board of directors or council or the auditor, on the basis of a decision taken by a meeting of shareholders, which has been taken by a simple majority of votes of those present. The articles of association may not specify a larger majority for the bringing of an action.

(2) A company has the duty to bring an action against the persons referred to in Paragraph one of this Section, also if that is requested by a minority of shareholders who jointly represent not less than one twentieth of the equity capital or whose participation in the equity capital of the company is not less than 50 000 lati. Such request by a minority of shareholders shall be submitted to that institution of the company which, in accordance with this Law, has the right to bring an action, but if such institution does not bring the action in a court within a period of one month, the minority of shareholders may bring an action in a court without the intermediation of this institution.

(3) Actions by a company against the board of directors shall be brought and maintained by the council. If a company has no council, then the meeting of shareholders, which took the decision regarding the bringing of an action against the members of the board of directors, shall elect one or several representatives of the company to bring and maintain the action.

(4) Action by a company against the founders, the council and the auditor shall be brought and maintained by the board of directors if a meeting of shareholders does not decide otherwise.

(5) If the bringing of an action is requested by a minority of shareholders, a court shall allow the persons selected by them as representatives of the company for the adjudication of the matter, if there is an important reason for this. In any event the case referred to in Paragraph two of this Section, when the relevant institution, despite the request by the minority of shareholders, does not bring an action to a court, shall be deemed to be an important reason.

(6) An action shall be brought in a court within three months from the date when a meeting of shareholders has taken a decision regarding the bringing of an action or when a request by the minority of shareholders was received. An appropriately certified excerpt of the minutes of the meeting shall be appended to the statement of the cause of action. A minority of shareholders in bringing an action in court have an obligation to attach evidence that these shareholders represent not less than one twentieth of the equity capital of the company or their participation in the equity capital of the company is not less than 50 000 lati, as well as a power of attorney from the relevant minority of shareholders.

(7) In respect of losses which a company incurs due to an unjustified action, those shareholders who voted for the bringing of the action or the minority of shareholders in the actions of which has been determined maliciousness or gross carelessness shall be solidarily liable.

(8) [14 February 2002]

[14 February 2002]

### **Section 173. Release from Liability**

(1) A meeting of shareholders may release members of the board of directors or council from liability or take a decision to enter into an amicable settlement only for specific actions which



were actually performed by them and were revealed at the meeting of shareholders, and as a result of which the company has incurred losses.

(2) A decision of a meeting of shareholders regarding the release from liability or to enter into an amicable settlement with the members of the board of directors or council shall not restrict the right of a minority of shareholders to bring an action in accordance with the provisions of Section 172, Paragraph two of this Law.

(3) A decision of a meeting of shareholders to approve the annual accounts shall not of itself release members of the board of directors and council from liability for their actions during the relevant accounting period.

[14 February 2002]

## **Chapter 5**

### **Annual Accounts of a Company and Distribution of Profits**

#### **Section 174. Company Accounts**

(1) After the end of the accounting year, the board of directors shall compile and sign the annual accounts of the company and submit them without delay to the auditor and the council (if such has been formed).

(2) Following receipt of the auditor's opinion and the report of the council, the board of directors shall convene a meeting of shareholders.

(3) If the company does not have a council, the board of directors shall convene a meeting of shareholders following the receipt of the auditor's opinion.

(4) The annual accounts, the auditor's opinion and the report of the council, together with a notice of the convening of a meeting of shareholders, shall be sent to all shareholders or announced in accordance with Section 273 of this Law.

#### **Section 175. Council Report to the Meeting of Shareholders**

(1) If the company has a council, it shall examine the annual accounts submitted by the board of directors and shall complete a written report regarding it, which shall be attached to the annual accounts.

(2) The report shall include:

- 1) an evaluation of the activities and financial condition of the company;
- 2) an evaluation of the work of the board of directors; and
- 3) a report regarding the work of the council in the accounting period.

#### **Section 176. The Auditor**

(1) The annual accounts of a company shall be audited and an opinion regarding them shall be submitted by the auditor.

(2) The auditor for the next accounting year shall be elected each year at the regular meeting of shareholders simultaneously with the approval of the annual accounts. The authorisation of the auditor shall be in effect until the next approval of the annual accounts.

(3) An auditor may be a person who, in accordance with law, has a right to perform an audit of the annual accounts of a company.

(4) An auditor may not be a shareholder, a member of the board of directors or council of the company itself, as well as a person who is otherwise interested in the commercial activities of the company. If the company is part of a group of companies, the auditor may not be also a

person who is a member of the board of directors or council of a dependent company or the dominant undertaking.

(5) The board of directors, the council or shareholders, who jointly represent not less than one tenth of the equity capital, may, during a meeting of shareholders or not later than two months after the meeting of shareholders, raise substantiated objections to the elected auditor. Objections raised at a meeting of shareholders shall be immediately decided by the meeting itself, but if such objections are raised later, the disputed issue shall be decided by a meeting of shareholders to be convened not later than within two months after the objections have been received by the board of directors. If the objections are rejected, the shareholders who have raised them, who jointly represent not less than one tenth of the equity capital, have the right, at their own expense, to invite another auditor. If such other auditor is invited, the status and scope of the rights of the elected auditor shall not change.

(6) The auditor invited in accordance with the procedures specified in Paragraph five of this Section has the same rights as the elected auditor, and the same provisions of the law shall be applicable to him or her.

[14 February 2002]

### **Section 177. Duties and Rights of an Auditor**

The duties and rights of an auditor shall be determined by the relevant laws.

### **Section 178. Liability of an Auditor**

(1) An auditor shall be liable to the company and third persons regarding any losses caused due to his or her fault.

(2) An auditor shall not be liable for any losses caused as a result of violations committed by the administrative institutions of a company, except in cases when he or she knew or should have known about such violations but failed to indicate them in the opinion.

(3) If an auditor becomes liable in accordance with the provisions of Paragraph two of this Section, he or she shall be solidarily liable together with the members of the relevant administrative institutions.

### **Section 179. Approval of the Annual Accounts of a Company**

(1) The annual accounts of a company shall be approved by a meeting of shareholders which has been convened by the board of directors after receipt of the auditor's opinion, but if the company has a council, also after the council's report has been received.

(2) The approval of the annual accounts of the company at a meeting of shareholders shall be postponed if the opinion of the auditor invited according to the procedures specified in Section 176, Paragraph five of this Law, differs from the opinion of the elected auditor.

(3) The approval of the annual accounts of a company at a meeting of shareholders shall be postponed if, disputing the correctness of separate positions in the annual accounts, the postponement is requested by shareholders who represent at least one tenth of the equity capital.

(4) If the approval of the annual accounts is postponed in the case referred to in Paragraph three of this Section, then at the next meeting of shareholders, the agenda of which shall include the approval of the annual accounts of the same year, a minority of shareholders may again request the postponement of the approval of the annual accounts only if new circumstances have been determined which are a barrier to the approval of the annual accounts.

## **Section 180.                    Utilisation of Company Profit**

- (1) The board of directors shall prepare and submit to a regular meeting of shareholders its proposal for the utilisation of profit.
- (2) The proposal regarding the utilisation of profit shall be sent to shareholders together with a notice regarding the convening of a meeting of shareholders and annual accounts, or it shall announced in accordance with the provisions of Section 273 of this Law.
- (3) The proposal shall indicate:
  - 1) the amount of the net profit of the company;
  - 2) [14 February 2002]
  - 3) [14 February 2002]
  - 4) the part of the net profit to be paid out as dividends; and
  - 5) the utilisation of the profit for other purposes.
- (4) The meeting of shareholders shall decide regarding the utilisation of the profit after the annual accounts of the company have been approved.
- (5) [14 February 2002]  
[14 February 2002]

## **Section 181.                    Submission of the Annual Accounts to the Commercial Register Office**

- (1) The board of directors shall submit the annual accounts to the Commercial Register Office.
- (2) The following shall be attached to the annual accounts:
  - 1) the auditor's opinion regarding the annual accounts, but if the company has, according to the procedures specified in Section 176, Paragraph five of this Law, an invited auditor, then this auditor's opinion shall also be attached; and
  - 2) an extract from the minutes of the meeting of shareholders with the decision regarding approval of the annual accounts.
- (3) Simultaneously with the annual accounts, a notice on the status of the equity capital of the company shall be submitted, indicating the subscribed equity capital and the paid-up equity capital as of the date when the annual accounts were approved.

## **Section 182.                    Payment of Cash Funds of the Company to Shareholders**

- (1) A company may make payments to its shareholders only if they are paid out as dividends or the equity capital is reduced, or if the company is liquidated and its property is divided among shareholders.
- (2) Payments made to shareholders which are not referred to in Paragraph one of this Section shall be deemed as unjustified. As unjustified payments of company funds shall also be deemed cases when a shareholder utilises the property of the company free-of-charge, when a shareholder is paid a higher remuneration than is specified in a contract for services provided, or when the company buys property from a shareholder at a higher than usual price.
- (3) Payments may not be made to shareholders if the net value of the own funds of the company at the time of the closure of the accounting year is less, or as a result of this payment shall become less, than the total amount of the subscribed equity capital of the company.

(4) The obligations referred to in Paragraphs one and three of this Section shall not apply to payments to shareholders against which obligations have arisen otherwise than from participation in the company.

[14 February 2002]

### **Section 183. Internal Audit of a Company**

(1) A decision regarding the conduct of an audit of the activities of the company on issues, which are associated with the activities of the company and its economic condition shall be taken by its shareholders or the board of directors, but if the company has a council, such a decision may be also taken by the council.

(2) Shareholders, who represent not less than one twentieth of the equity capital of the company, may request the conduct of an audit if there is a substantiated reason for it.

(3) If the board of directors does not agree to the conduct of an audit, it shall convene a meeting of the shareholders without delay, including in the agenda the issue of the conduct of an audit. If the meeting of shareholders rejects the request, the minority of shareholders who represent not less than one twentieth of the equity capital with voting rights may request that the Commercial Register Office assign the conduct of an audit to an auditor, who is included in a list approved by it, or may itself invite an auditor who conforms to the provisions of Section 176, Paragraph three of this Law.

(4) The audit shall be conducted at the expense of the company. If the auditor has been invited by the shareholders themselves, such audit shall be conducted at the expense of these shareholders.

(5) The auditor shall prepare an opinion regarding the results of an internal audit, which shall be submitted to the institution of the company which had taken the decision to conduct the audit, or the minority of shareholders and the board of directors.

[14 February 2002]

### **Section 184. Company Controller**

(1) Shareholders may elect one or more company controllers to perform internal audits and control of the company.

(2) The company controller shall be elected for a period, which does not exceed three years.

(3) The company controller shall examine the activities of the company, as well as in cases, when it is requested by the shareholders who represent not less than one tenth of the equity capital of the company, conduct an examination of the annual accounts of the company if he or she has been invited by a minority of shareholders in accordance with the provisions of Section 176, Paragraph five of this Law.

(4) The company controller has a right to request that the board of directors invite experts, if there is an important reason for it.

(5) The provisions of Sections 177 and 178 of this Law shall apply to the company controller.

**Division XII**  
**Limited Liability Companies**

**Chapter 1**  
**Equity Capital and Shares**

**Section 185. Amount of Equity Capital**

The minimum amount of equity capital of a limited liability company (hereinafter in this Division – company) shall be 2000 lati.

**Section 186. Shares**

(1) The par value of a share shall be determined by the articles of association of a company, and shall be stated in whole lati. All shares shall have the same par value.

(2) Shares shall be indivisible, and they are all registered shares.

(3) A share gives a shareholder rights to take part in the administration of the company, in the distribution of profit and in the division of property in the case of the liquidation of the company, as well as to other rights provided for by law and the articles of association.

[14 February 2002]

**Section 187. Registration of Shares**

(1) For the registration of shares, a company register of shareholders shall be kept.

(2) The following information shall be recorded in the company register of shareholders:

1) for natural persons – given name, surname, personal identity number and residential address of the shareholder, but for legal persons – name, registration number and legal address;

2) the par value of a share;

3) the number of shares owned by each shareholder; and

4) the date when a shareholder has fully paid-up their shares or, if an increase in the equity capital has occurred – also the time period for the payment of shares;

(3) The initial entries in the company register of shareholders shall be made in accordance with the information, which is indicated in the memorandum of association.

(4) Further entries in the company register of shareholders shall be made not later than on the next day after the board of directors has received information about changes which have occurred in the information referred to in Paragraph two of this Section.

(5) Entries in the company register of shareholders shall be certified by an authorised representative of the board of directors with his or her signature.

(6) The board of directors shall submit a corrected copy of the company register of shareholders to the Commercial Register Office in respect of changes to the entries in the company register of shareholders.

(7) Shareholders, members of the board of directors and council, and the auditor, as well as competent State institutions are entitled to become acquainted with the company register of shareholders.

(8) Shareholders have the right to receive an extract from the company register of shareholders certified by the authorised representative of the board of directors regarding the shares in the company that are owned by them.

## **Section 188. Alienation of Shares**

- (1) Shareholders may alienate shares owned by them, independently determining their value.
- (2) Shareholders may make a gift of, exchange, or otherwise alienate shares (except sell) only with the consent of the meeting of shareholders.
- (3) Only fully paid-up shares may be alienated.
- (4) The articles of association may provide for procedures for the alienation of shares, which differ from the procedures specified in Paragraphs two and three of this Section, as well as from the provisions of Section 189, Paragraph one of this Law.
- (5) [14 February 2002]  
[14 February 2002]

## **Section 189. Shareholder's Right of First Refusal**

- (1) If a shareholder sells a share owned by him or her, the other shareholders shall have the right of first refusal. The time period for the utilisation of first refusal may not exceed one month from the date when the notification regarding the sale was submitted to the board of directors. The board of directors has a duty, after receipt of such notification, to inform all shareholders of this without delay.
- (2) If two or more shareholders wish to utilise their rights of first refusal and the number of the shares to be sold is sufficient, the shares shall be divided between these shareholders in proportion to the shares owned by them.
- (3) If two or more shareholders wish to utilise their rights of first refusal, but the number of the shares to be sold is not sufficient to divide them proportionally, the board of directors shall organise a restricted auction among these shareholders in respect of the remaining shares that cannot be proportionately divided.  
[14 February 2002]

## **Section 190. Pledging of Shares**

Shares may be pledged on the basis of commercial pledge regulations if the articles of association do not prohibit the encumbering of shares.

## **Section 191. Inheritance of Shares**

- (1) In the case of the death of a shareholder, the shares belonging to him or her shall be inherited by his or her heirs if the articles of association do not specify that the shares devolve to the company. If the articles of association provide for the shares of the deceased shareholder to devolve to the company, then the company has a duty to pay out to the heirs compensation in conformity with the liquidation quota which the deceased shareholder would have received at the moment of the opening of the succession.
- (2) Shares which have no heirs shall escheat to the State. The State shall have no voting rights, and, when determining the norms for representation, these shares shall not be taken into account.
- (3) The shares acquired shall be offered for sale by the State to the existing shareholders of the company not later than within two months after their acquisition. The sale of such shares shall be performed in the name of the State by a relevant State institution.  
[14 February 2002]

## **Section 192. Acquisition of Own Shares**

- (1) A company may not acquire its own shares, except in cases when it acquires these shares:
- 1) by way of inheritance;
  - 2) in the case of the death of a shareholder if the articles of association provide that the shares of the deceased shareholder devolve to the company;
  - 3) by a shareholder renouncing his or her shares in writing;
  - 4) by a shareholder losing rights to shares that have not been paid-up;
  - 5) if a shareholder is expelled from the company; and
  - 6) in the case when a shareholder – a legal person – is terminated, if the shares of the legal person have not been acquired by another person.
- (2) If a company acquires its own shares, it shall not have any of the rights of a shareholder. When determining the norms for representation, these shares shall not be taken into account.  
[14 February 2002]

## **Section 193. Alienation of Own Shares**

- (1) A company shall alienate acquired own shares within a period of a year from the day when they were acquired.
- (2) If a company fails to alienate its own shares within the time period specified, these shares shall be cancelled, correspondingly reducing the equity capital in accordance with the provisions of this Law regarding the reduction of equity capital.

## **Section 194. Rights of Shareholders to Information**

Shareholders have the right to receive information from the board of directors regarding the activities of the company and to become acquainted with all of the company's documents. These rights may be restricted in each concrete case by a decision of a meeting of shareholders if there is a justified suspicion that the shareholder may have utilised the information acquired in contradiction to the aims of the company, and thus causing significant harm or losses to the company or to one of the subjects included with the company in a group of companies, or a third person.  
[14 February 2002]

## **Section 195. Expulsion of a Shareholder**

- (1) A court may expel a shareholder from a company on the basis of an action by the company, if he or she has, without justifiable reason, failed to perform his or her obligations or have otherwise done substantial harm to the interests of the company or have not performed obligations or have not ceased to inflict harm after receiving a written warning from the company.
- (2) Actions may be brought regarding the expulsion of a shareholder by shareholders who represent not less than one half of the equity capital of the company, if a larger number of votes is not specified in the articles of association.
- (3) In the case of the expulsion of a shareholder, his or her shares shall be transferred to the company, which has the duty to pay out to the expelled shareholder his or her contribution, which shall be determined in conformity with the provisions of Section 156, Paragraph two of this Law.

## **Chapter 2**

### **Changes in Equity Capital**

#### **Section 196. Decision Regarding Changes in Equity Capital**

(1) Equity capital may be increased or reduced only on the basis of a decision of a meeting of shareholders in which the regulations for the increase or reduction of equity capital have been specified.

(2) A decision regarding changes in equity capital shall be regarded as taken, if not less than two-thirds of votes of the shareholders present vote for it, but in the cases referred to in Section 215 of this Law – by not less than two-thirds of votes of all members, if a larger number of votes is not specified in the articles of association.

(3) If a decision is taken on changes in equity capital, relevant amendments shall be made at the same time to the articles of association.

#### **Section 197. Increase of Equity Capital**

(1) The equity capital of a company may be increased:

1) by the existing shareholders or newly admitted shareholders making contributions to the equity capital of the company and receiving in return a relevant number of new shares; and

2) after the approval of annual balance sheet or extraordinary balance sheet of the company, by increasing the par value of the existing shares, and by including fully or partially in the equity capital the positive difference between own capital and equity capital.

(2) Equity capital may only be increased when all the existing shares are fully paid-up.

(3) If the new shares are acquired for a price which exceeds the par value of the shares in accordance with the provisions of Section 155, Paragraph two of this Law, the difference between the acquisition price and the par value of the acquired shares shall not be included in the equity capital.

(4) Property contributions in the case of an increase of equity capital are permitted only if they are provided for in the regulations for the increase of equity capital.

(5) [14 February 2002]

[14 February 2002]

#### **Section 198. Regulations Regarding an Increase of Equity Capital**

A decision regarding an increase of equity capital shall approve regulations for an increase of equity capital, which shall indicate:

1) the means of increasing the equity capital;

2) the size of the increased equity capital and the amount by which it shall be increased;

3) the number of new shares;

4) the par value of a share;

5) the price of a share, if a share premium has been specified;

6) the method of payment for shares;

7) the time period during which third persons shall submit applications for share acquisition, if the equity capital is increased by accepting new shareholders;

8) the time period within which the new shares must be paid-up, calculated with a view that the new shares shall be fully paid-up not later than six months from the date when a decision has been taken to increase the equity capital;



- 9) the time period from which the new shares shall give the right to receive dividends;  
and  
10) other provisions which are not in contradiction with the law.

### **Section 199. Shareholder's Right of First Refusal**

(1) Within a period of 15 days from the date when a decision has been taken to increase equity capital, a shareholder has the right of first refusal to the acquisition of new shares, in proportion to the number of shares already owned by him or her.

(2) If a shareholder has not utilised the right of first refusal to acquire new shares, then, within a period of 15 days after the end of the time period mentioned in Paragraph one of this Section, he or she may be acquired by those shareholders, who have utilised the right of first refusal referred to in Paragraph one of this Section

(3) If two or more other shareholders wish to acquire shares to which a shareholder has not utilised the right of first refusal, they shall be divided among these shareholders in proportion to the number of shares owned by them. If the number of shares to be sold is not sufficient to divide them proportionally, the board of directors shall organise a restricted auction among these shareholders for the remaining shares that cannot be proportionately divided.

(4) If the shareholders have not utilised the rights provided for in Paragraphs one or two of this Section, then third persons may acquire the new shares.

[14 February 2002]

### **Section 200. Application to Acquire Shares**

(1) If a shareholder wishes to acquire new shares, they shall submit an application regarding the acquisition of shares to the company within the time period specified in Paragraph one or two of Section 199 of this Law.

(2) Third persons shall submit an application within the time period specified in the decision regarding increase of equity capital.

(3) An application shall be binding on the person who has submitted it.

(4) The following shall be indicated in the application:

- 1) the firm name of the company;
- 2) an offer to acquire shares in the company;
- 3) the number of shares which a person wishes to acquire;
- 4) the method by which the acquired shares will be paid-up in conformity with the regulations for the increase of equity capital;
- 5) the item of the property contribution (if a property contribution is made); and
- 6) the time period within which the contribution shall be made, not exceeding the time period referred to in the regulations for the increase of equity capital.

### **Section 201. Procedures for Payment of Equity Capital**

In the case of an increase of equity capital, the provisions of Sections 151–154 shall be applied if it is not specified otherwise in this Chapter.

**Section 202. Application to the Commercial Register Office for an Increase of Equity Capital**

(1) After all the shareholders, based upon their applications regarding the acquisition of shares, have been recorded in the register of shareholders, the board of directors shall submit an application regarding the increase of the equity capital to the Commercial Register Office.

(2) The following shall be attached to the application:

1) an extract of the minutes of the meeting of shareholders or, in the case referred to in Section 215 of this Law – the extract of the minutes of the voting with the decision to increase to the equity capital;

2) the regulations for the increase to the equity capital;

3) the text of amendments to the articles of association and the full text of the new version of the articles of association;

4) applications of shareholders or third persons to acquire the shares;

5) if the equity capital is being increased by contributions of money – a certificate from a bank or other document regarding paid-up equity capital, if it has already been done; and

6) in the case of property contributions – documents which certify the value of the contributions and their transfer to the company.

(3) Equity capital shall be deemed to be increased from the day when the new amount of equity capital is recorded in the Commercial Register.

**Section 203. Notice of the Increase of Equity Capital**

Not later than within a period of five days after the end of the time period for paying up the shares, the board of directors shall submit a copy of the corrected register of shareholders to the Commercial Register Office, in which is reflected the situation as to share payments after the increase of the equity capital.

**Section 204. Means of Reducing Equity Capital**

Equity capital may be reduced by cancelling shares or reducing the par value of the shares.

**Section 205. Regulations for the Reduction of Equity Capital**

(1) The regulations for a reduction of equity capital shall indicate:

1) the reasons for the reduction of the equity capital;

2) the means and procedures for the reduction of the equity capital;

3) the size of the reduced equity capital and the amount by which it shall be reduced;

and

4) the par value of a share.

(2) A notice of the reduction in the equity capital shall be sent without delay to the Commercial Register Office. The notice shall have attached an extract of the minutes of the meeting of shareholders or, in the case referred to in Section 215 of this Law, the extract of the minutes of the voting regarding the reduction to the equity capital and the regulations for the decrease of equity capital.

## **Section 206. Amount of Reduction of Equity Capital**

Equity capital may be reduced up to the amount specified in Section 185 of this Law.

## **Section 207. Protection of Creditors**

(1) Within a period of five days after a decision has been taken to reduce equity capital, the board of directors shall send a written notice regarding the reduction of the equity capital and the size of the new equity capital of the company to all known creditors of the company, who have a right to claim against the company prior to when the decision to reduce equity capital was taken.

(2) The board of directors shall publish a notice of the decision to reduce equity capital in the newspaper *Latvijas Vēstnesis*. The notice shall include the time period during which creditors may apply who wish to receive security, and the time period for creditor claim applications, which may not be less than one month from the date when the notice was published.

(3) The company shall provide security to creditors who have applied within the specified time period (except for secured creditors to the amount of secured claims).

## **Section 208. Application to the Commercial Register Office for the Reduction of Equity Capital**

(1) After the time period for claim applications from creditors has ended and claims are secured, the board of directors shall submit an application regarding the reduction of the equity capital to the Commercial Register Office. The application shall have attached the text of amendments to the articles of association and the full text of the new version of the articles of association.

(2) In the application, the board of directors shall certify that the company has either provided security to their creditors or has satisfied their claims.

(3) The application shall be submitted to the Commercial Register Office not later than six months from the date, when the decision to reduce the equity capital was taken.

(4) The equity capital shall be deemed to be reduced as of the date when the new size of the equity capital is recorded in the Commercial Register.

## **Chapter 3 Administration of a Company**

### **Section 209. Administrative Institutions of a Company**

The administrative institutions of a company are the meeting of shareholders and the board of directors, as well as the council (if such has been formed).

### **Section 210. Competence of the Meeting of Shareholders**

(1) The following are within the competence only of the meeting of shareholders:

- 1) making amendments to the articles of association;
- 2) increase or reduction of the equity capital;
- 3) election or recall of members of the council;
- 4) election or recall of members of the board of directors;
- 5) approval of the annual accounts and the distribution of profits;
- 6) election and recall of the auditor, company controller and liquidator;

7) the taking of decisions regarding the bringing of actions against members of the board of directors, council members, founders or shareholders, and regarding the appointment of a representative of the company for conducting the matter in court;

8) [14 February 2002]

9) the taking of decisions on termination, continuation or reorganisation of the activities of the company; and

10) other issues which in accordance with the law or the articles of association are transferred to the competence of the shareholders.

(2) The meeting of shareholders also has the right to take decisions on such issues as are within the competence of the board or directors or the council. In such case, the shareholders who voted for this decision shall be solidarily liable for any losses incurred as a result of such decisions.

[14 February 2002]

### **Section 211. Voting Rights of Shareholders**

(1) Only a fully paid-up share shall give a shareholder voting rights. Each fully paid-up share shall give a shareholder only one vote, if the articles of association do not specify otherwise.

(2) A shareholder shall not have the right to take part in voting if a decision is to be taken regarding releasing him or her from obligations or liability, regarding the bringing of actions against him or her. When determining the norms for representation, such shareholder's votes shall not be taken into account.

[14 February 2002]

### **Section 212. Meetings of Shareholders**

(1) A meeting of shareholders is entitled to take decisions if shareholders, who jointly represent not less than one half of the equity capital with voting rights participate in it, if the articles of association do not provide for a larger norm for representation.

(2) If a meeting of shareholders convened according to the procedures specified by law is not entitled to take decisions due to the lack of a quorum, a reconvened meeting with the same agenda has the right to take decisions irrespective of the number of votes represented in it.

(3) A shareholder may participate at a meeting in person or through a representative who has a written authorisation. An authorisation is not necessary for a person who represents the shareholder on the basis of law. Such persons shall present a document which certifies the right of representation.

(4) A meeting of shareholders shall be chaired by the chairperson of the board of directors if the shareholders do not elect another chairperson of the meeting.

[14 February 2002]

### **Section 213. Convening a Meeting of Shareholders**

(1) A regular meeting of shareholders shall be convened by the board of directors at least once a year in order to approve the annual accounts, to take a decision regarding the distribution of profit, and to elect an auditor.

(2) If the board of directors has not convened a regular meeting of shareholders in the specified time period, it may be convened by:

1) the council (if such has been formed); or

2) the Commercial Register Office.

(3) The board of directors has an obligation to convene a meeting of shareholders in the cases specified in the articles of association, as well as if:

- 1) the losses of the company exceed half of the company's equity capital;
- 2) the council has requested it; or
- 3) it is requested by shareholders who represent not less than 10 per cent of the equity capital of the company.

(4) If the board of directors does not convene a meeting of shareholders within a period of one month from the day when it receives a request from the council or the shareholders, the council or the shareholders, as the case may be, shall convene the meeting.

(5) If the meeting of shareholders has not been held due to the reason referred to in Section 212, Paragraph two of this Law, then a repeated meeting of shareholders shall be convened within a period of one month.

(6) Minutes shall be kept of the proceedings of the meeting. The provisions of Section 285 of this Law shall apply to them.

[14 February 2002]

#### **Section 214. Notice regarding the Convening of a Meeting of Shareholders**

(1) The board of directors shall send a notice regarding the convening of a meeting to all shareholders not later than two weeks before the meeting. The notices shall be sent to the addresses indicated in the company register of shareholders. The articles of association may provide for different notice procedures.

(2) The notice shall indicate the time and place of the meeting of shareholders, the agenda, as well as other information which is of significance to the convening and procedures of the meeting.

#### **Section 215. Taking of a Decision without Convening a Meeting of Shareholders**

(1) Shareholders have the right to take decisions without convening a meeting of shareholders, unless the law or the articles of association specify that certain issues shall only be decided at a meeting of shareholders.

(2) The board of directors shall send a written draft decision and documents that are of importance to the taking of the decision to all shareholders, indicating the time period within which shareholders may in writing vote "for" or "against" the taking of the decision. Such a time period may not be less than two weeks from the date the draft decision was sent out. If a shareholder has not given a written reply within the specified time period, it shall be deemed that he or she has voted against the taking of the decision.

(3) The board of directors shall complete minutes of voting regarding the results of the voting and shall immediately send the minutes to all shareholders. The following shall be indicated in the minutes of voting:

- 1) the firm name and the legal address of the company;
- 2) the given name and surname of the person who compiled the minutes;
- 3) the decisions taken and the results of voting in respect of them;
- 4) pursuant to the request of a shareholder regarding the expression of a different viewpoint – the substance of such viewpoint; and
- 5) other essential information in respect of the voting.

(4) If a decision is taken without convening a meeting of shareholders, the decision shall be considered taken if it has received more than half of all of the shareholders' votes, if a larger number of votes is not specified by law or the articles of association.

## **Section 216. Shareholders' Decisions Taken at a Meeting of Shareholders**

- (1) A decision by the shareholders has been taken if it has received more than half of the votes represented at the meeting, if a larger number of votes is not specified by law or the articles of association.
- (2) A decision of a meeting of shareholders shall be recorded in the minutes or shall be prepared in the form of a separate document. The minutes shall be signed by the chairperson of the meeting and the recorder of the minutes. The decision shall be signed by the chairperson of the meeting.
- (3) A decision by the shareholders in respect of the company, members of its council and of the board of directors, the auditor and shareholders shall be in effect as of the time it was taken, if in the decision or the law another time period is not specified for the coming into effect of the decision.

## **Section 217. Declaration of a Decision by Shareholders as Void**

- (1) A court, based upon an action by shareholders, the members of the board of directors or of the council, may declare a decision of shareholders as void, if such decision or the procedures for the taking of it is in contradiction to law or the articles of association, or a significant violation has been allowed in the convening of the meeting or the taking of the decision. An action may be brought within three months from the day when the decision was taken.
- (2) If a decision was taken in violation of the procedures for the taking of decisions, the decision may not be disputed on such grounds if all the shareholders voted for the taking of such decision.

## **Section 218. Taking of Decisions Regarding Amendments to the Articles of Association**

- (1) Decisions regarding amendments to the articles of association shall be taken if not less than two-thirds of the votes represented at the meeting were given for such decision, or in the case referred to in Section 215 of this Law – more than two-thirds of all shareholders' votes, if the articles of association do not specify a larger number of votes.
- (2) In submitting amendments to the articles of association to the Commercial Register Office, an extract of the minutes of the meeting of shareholders or an extract of the minutes of voting with the amendments to the articles of association and the articles of association in full with the new text shall be appended.

## **Section 219. Convening of a Meeting of Shareholders if the Company has Suffered Losses**

If the losses of a company exceed half of the equity capital of the company, the board of directors shall notify the council (if such council has been established) of this and convene a meeting of shareholders in which the board shall provide explanations.

[14 February 2002]

## **Section 220. Council**

- (1) A company shall establish a council if it is provided for in the articles of association.
- (2) In respect of the activities and competence of a council, the provisions of Sections 291–300 of this Law shall apply, insofar as is not specified otherwise in this Chapter.

## **Section 221. Board of Directors**

- (1) The board of directors is the executive body of the company, which manages and represents the company.
- (2) The board of directors may consist of one or more members.
- (3) A natural person with the capacity to act may be a member of a board of directors. Not less than one half of the members of the board of directors shall be persons with a permanent residence in Latvia.
- (4) Members of the council of the company, the auditor of the company, or a person who, by a judgment of a court, has been deprived of the right to conduct the relevant type or all types of commercial activities, and members of the council of the dominant undertaking in a group of companies may not be members of the board of directors. Greater restrictions on members of the board of directors may be specified in the articles of association.
- (5) The board of directors has a duty to provide information to a meeting of shareholders regarding concluded transactions between the company and shareholders, members of the council or members of the board of directors.
- (6) The board of directors has the duty to submit to the council, at least once every quarter, a report on the activities and financial circumstances of the company, as well as it shall, without delay, notify the council regarding deterioration of the financial condition of the company, or other significant circumstances related to the company's commercial activities.
- (7) The board of directors shall elect a chairperson of the board of directors from among themselves, who shall organise the activities of the board of directors. If the company has established a council, the articles of association may provide that the chairperson of the board of directors is appointed by the council.
- (8) The members of the board of directors have a right to remuneration which is commensurate with their duties and the financial circumstances of the company. The amount of the remuneration shall be determined by a decision of the council, but if the company has no council – by a decision of shareholders.
- (9) [14 February 2002]
- (10) [14 February 2002]
- (11) If the executive body of a company is one person, then he or she is the executive director of the company with the rights and duties delegated in Sections 221-224.  
[14 February 2002]

## **Section 222. Right of the Board of Directors to Manage the Company**

The members of the board of directors shall manage the company only jointly.  
[14 February 2002]

## **Section 223. Representation Rights of the Board of Directors**

- (1) All members of the board of directors have representation rights. Members of the board of directors shall represent the company jointly if the articles of association do not specify otherwise. The articles of association may specify that the company is represented by the members of the board of directors jointly with the proctor.
- (2) In the case of joint representation, the members of the board of directors may authorise from among themselves one or more members of the board of directors to conclude specific transactions or specific types of transactions. This provision shall be appropriately applied

also when the company is represented by the members of the board of directors jointly with the proctor.

(3) The representation rights of the board of directors in respect of a third person may not be restricted. The rights of the members of the board of directors, which are specified in the articles of association, to represent the company jointly or individually, or jointly with the proctor shall not be deemed to be restrictions of the representation rights of the board of directors within the meaning of this Section.

(4) In relation to the company, the board of directors shall observe the restrictions of representation rights, which are specified in the articles of association, and by decisions of the meeting of shareholders and of the council.

[14 February 2002]

## **Section 224. Election and Recall of Members of the Board of Directors**

(1) Members of the board of directors shall be elected and recalled by a decision of the meeting of shareholders, which meeting shall also determine changes in representation rights (Section 223). In submitting an application to the Commercial Register Office regarding the termination of the authorisation of a member of the board of directors or regarding the election of a new member of the board of directors, the application shall have appended to it an extract of the minutes of the meeting of shareholders with the relevant decision.

(2) To elect a person as a member of the board of directors, written consent from the relevant person is necessary. In it, the candidate for member of the board of directors shall indicate if he or she has any possible barriers to take up the position in accordance with the provisions of Section 171 and Section 221, Paragraph four of this Law or that there are no such barriers for him or her.

(3) A member of the board of directors shall be elected for a period of three years, if the articles of association do not specify a shorter term.

(4) A member of the board of directors may be recalled by a decision of the shareholders. If the company has a council, the council may suspend any member of the board of directors from his or her position until the meeting of shareholders but not for longer than two months.

(5) [14 February 2002]

(6) It may be provided for by the articles of association, that a member of the board of directors may be recalled only if there is an important reason. Such reasons shall, in any case, be considered to be gross violations of authority, failure to perform or to appropriately perform his or her duties, an inability to manage the company, or causing harm to the interests of the company, as well as loss of confidence.

(7) [14 February 2002]

[14 February 2002]

## **Division XIII Stock Companies**

### **Chapter 1 Capital and Securities of Stock Companies**

## **Section 225. Equity Capital of a Stock Company**

(1) The equity capital of a stock company (hereinafter in this Division – company) may not be less than 25 000 lati.



(2) The equity capital specified in the articles of association when founding a company shall be fully paid-up not later than within a period of one year from the date of the signing the memorandum of association of the company.

#### **Section 226. Stock and the Legal Relations Associated with It**

(1) Stocks are securities which certify the stockholder's participation in the equity capital of a company and gives them the right, in conformity with the relevant category of stock, to take part in the administration of the company, to receive dividends and, in the case of the liquidation of the company, a liquidation quota.

(2) Stocks are indivisible.

(3) The legal relations which arise in relation to stock which is in public circulation shall be regulated by this Law insofar as the Law On Securities does not specify otherwise.

#### **Section 227. Categories of Stock**

(1) Different rights may fixed in stock in respect to:

- 1) receiving dividends;
- 2) receiving a liquidation quota; and
- 3) voting rights at a meeting of stockholders.

(2) Stock in which an equal amount of rights are fixed is stock of one category. If a company has several categories of stock, each category of stock shall be given a different designation.

#### **Section 228. Registered Stock and Bearer Stock**

(1) Stock may be registered stock or bearer stock.

(2) The rights arising from registered stock belong to the person who, as a stockholder, is recorded in the register of stockholders.

(3) The rights arising from bearer stock belong to the person who owns such stock.

(4) A stockholder may request that the company convert the bearer stock owned by them into registered stock and *vice versa* if the articles of association provide for conversion.

#### **Section 229. Form of Stock**

(1) Registered stock may be issued in paper form or dematerialised.

(2) Bearer stock may be only dematerialised.

[14 February 2002]

#### **Section 230. Par Value of Stock**

(1) The par value of stock shall be determined by the articles of association of the company and shall be expressed in lati.

(2) The par value of stock shall be expressed in whole lati, and it shall be such that it can be divided by the smallest par value of the stock of the company without a remainder.

#### **Section 231. Preference Stock**

(1) Preference stock give a stockholder special rights in relation to dividends and liquidation quotas, as well as receiving dividends and liquidation quotas.

- (2) A company may issue preference stock if such form of stock is provided for by its articles of association.
- (3) The sum total of the par value of preference stock issued in the first two years of the operation of a company may not exceed 25 per cent of the equity capital of the company. After the approval of the annual accounts of two years of activities, the sum total of the par value of preference stock may be increased up to 100 per cent of the sum total of the par value of the rest of the stock.

### **Section 232. Rights Arising from Preference Stock**

- (1) The rights arising from preference stock shall be determined in the articles of association.
- (2) Preference stock does not give voting rights.
- (3) If a stockholder who owns preference stock with special rights in relation to receiving dividends is not paid dividends for two accounting years in succession or is paid only part of them, they shall acquire voting rights in the next accounting year under general provisions in proportion to the amount of the par value of the preference stock owned by them.
- (4) The acquisition of voting rights shall not release the company from the obligation to pay the arrears of dividends, as well as shall not impact upon other rights which arise from preference stock.
- (5) Stockholders who own preference stock with special rights in relation to receiving dividends shall lose their voting rights on the last day of that accounting year during which they have fully received all previous arrears of dividends.

### **Section 233. Changes in, Restrictions on or Revocation of Preferences**

- (1) A meeting of stockholders by making relevant amendments in the articles of association, may take decisions on the changing, restricting or revoking of those preferences, which arise from preference stock.
- (2) The decision referred to in Paragraph one of this Section shall be in effect if the relevant category of holders of preference stock have also voted for the taking of it with a number of votes which is not less than three quarters of the total number of this category of votes.
- (3) The provisions of Paragraph two of this Section regarding consent by the holders of preference stock shall also apply in the case when a decision is taken to issue new preference stock which have larger or equal preferences in comparison with the already existing preference stock.
- (4) The provisions of Paragraphs two and three of this Section shall not apply to any of the following cases:
- 1) if the articles of association provide for priority right to holders of preference stock to preference stock to be issued; or
  - 2) if it is explicitly specified in the memorandum of association or in the regulations for the increase of equity capital that when issuing the existing preference stock, the provisions of Paragraphs two and three of this Section shall not apply.

[14 February 2002]

### **Section 234. Register of Stockholders**

- (1) For the recording of registered stock and their holders, the board of directors shall ensure the maintenance of a register of stockholders.
- (2) The correctness of the record in the register of stockholders with his or her signature shall be certified by an authorised person of the board of directors.

### **Section 235. Information to be Recorded in the Register of Stockholders**

(1) In the register of stockholders shall be recorded:

1) information regarding stockholders:

a) for a natural person – given name, surname, personal identity number and residential address, and

b) for a legal person – name, registration number and legal address;

2) category and number of stock, par value, serial numbers if such have been assigned, and the number of votes arising from them; and

3) the date by which the stockholder has fully paid-up his or her stock or, if it has not yet been paid-up in full – the time period by which the stock shall be paid-up.

(2) The initial records in the register of stockholders shall be made in accordance with information which is indicated in the memorandum of association.

(3) Further records in the register of stockholders shall be made not later than the next day after the board of directors has received information regarding changes which have occurred in the records of the Commercial Register.

(4) [14 February 2002]

[14 February 2002]

### **Section 236. Right to Become Acquainted with the Register of Stockholders**

(1) Stockholders, members of the board of directors and of the council, the auditor, and competent State authorities have the right to become acquainted with the register of stockholders.

(2) The persons referred to in Paragraph one of this Section, shall have the right to receive an extract from the register of stockholders free of charge, which shall be certified by an authorised person of the board of directors on request.

### **Section 237. Payment of Stock**

(1) Stockholders shall pay up their stock to the amount, according to the procedures and within the time periods specified in the memorandum of association or the regulations for an increase of equity capital. The articles of association of a company may provide that a company may fully pay up stock, which may belong only to employees of the company (employee stock).

(2) The time period for fully paying up registered stock in the case when equity capital is being increased, may not exceed one year from the date when the subscription to the stock was opened.

(3) Bearer stock may not be paid-up by instalments. They shall be fully paid-up when subscribing to the stock.

(4) Following the end of the time period for the payment of stock, the board of directors shall notify the Commercial Register Office regarding the stock being fully paid-up or regarding the status of the payment of stock.

### **Section 238. Alienation of Stock**

(1) A stockholder may freely alienate their stock.

(2) The articles of association may provide that the sale of registered stock shall require the consent of the board of directors, the council or a general meeting of stockholders, as well as

the grounds on which such consent may be refused, and the right of first refusal of other stockholders to the stock to be sold. The time period for the utilisation of the rights of first refusal may not exceed one month from the date when the notice regarding the sale was submitted to the board of directors of the company. The board of directors shall, after receipt of such notice, without delay publish it in accordance with the procedures specified in Section 252 of this Law.

(3) Alienation of dematerialised stock shall be by transferring them to the securities account of the acquirer.

(4) Alienation of the registered stock in paper form shall be by making a transfer record upon them (endorsement).

(5) The acquirer of registered stock shall notify the company regarding the acquisition of stocks by submitting an application and presenting registered stock in paper form with a transfer notation upon them (endorsement), but in the case of alienation of dematerialised registered stock – by submitting a joint alienor and acquirer application or transaction document. An entry shall be made in the register of stockholders in accordance with the provisions of Section 235 of this Law regarding such.

[14 February 2002]

### **Section 239. Prohibition on Companies to Subscribe to Their Own Stock**

(1) A company may not subscribe to its own stock.

(2) A dependent company may not subscribe to the stock of its dominant undertaking.

(3) If such person subscribes to the stock of a company who acts in their own name but for the benefit of the company or its dependent companies, then it shall be deemed that such person has subscribed to the stock on their own account. An agreement which is in contradiction with this provision shall be void.

### **Section 240. Prohibition to Acquire Own Stock**

(1) A company may not itself acquire its own stock, except in the following cases:

1) if a company reduces its equity capital by withdrawing a part of the stock from circulation and cancelling it;

2) if a company acquires its own stock in order to protect itself from substantial direct losses;

3) if a company acquires its own employee stock which, in accordance with the articles of association, may belong only to the employees of the company;

4) if a company acquires its own stock, by paying compensation to its own minority stockholders or to the minority stockholders of its dependent companies in the cases specified by law;

5) if a company acquires its own stock when it acquires some other undertaking or its part;

6) if a company acquires its own stock as a result of a free-of-charge transaction;

7) if a company acquires its own stock by way of inheritance;

8) if a company acquires its own stock by collecting on its claims from third persons;

9) if the stock held by a stockholder who has not paid-up such stock within the specified time period to a company is devolved; or

10) if a company purchases such of its own stock from the State or from a local government which was issued by replacing the tax debts of the company to the State budget or to the budget of a local government with the stock of the company.

(2) In the cases referred to in Paragraph one, Clauses 2, 6, 8 and 10 of this Section the company may acquire only fully paid-up stock.

(3) In the cases referred to in Paragraph one, Clause 2 of this Section, a company may acquire its own stock, based upon a decision of a meeting of stockholders, with the condition that the total par value of the acquired stock together with the stock already owned by the company does not exceed one tenth of the subscribed equity capital of the company. The company may acquire the referred to stock only if the own funds of company exceed the amount of the equity capital, and as a result of the acquisition of such stock the own funds of the company do not become less than the referred to amount. The decision of the meeting of stockholders shall indicate the maximum number of stock to be acquired, as well as the time period in which the stock shall be acquired and which may not exceed 18 months. If the stock is acquired for compensation, the decision shall indicate the minimum and maximum amount of compensation.

(4) Stock of a company, belonging to a person who has acquired such stock in his or her own name but for the benefit of such company, as well as company stock held by a dependent company of such company, shall be deemed to be owned by that company if the law does not specify otherwise.

(5) If a company acquires its own stock in violation of the provisions of this Section, then the members of the board of directors who are at fault, shall be solidarily liable regarding the payment of any illegally acquired stock.

(6) As a result of the acquisition of its own stock, the value of the own funds of a company may not become smaller than the amount of the equity capital of the company.

(7) Own stock, owned by a company, shall not give the company any of the rights which arise from such stock, and such rights shall not be taken into account when determining the quorum of a meeting of stockholders and in the distribution of profit.

(8) The acquisition of own stock shall be reflected by a company in the annual accounts, setting out the following information regarding the stock acquired in the relevant accounting year:

- 1) reason for the acquisition;
- 2) the number of stock acquired, the total of the par value and the share of equity capital represented by the stock; and
- 3) if the stock are acquired by payment – the form of payment and the amount.

(9) The annual accounts in addition to the information referred to in Paragraph eight of this Section shall also indicate the total number of own stocks owned by the company and the share of equity capital represented by the stock.

[14 February 2002]

#### **Section 241. Prohibition on Financing of the Acquisition of Own Stock**

(1) A company is prohibited from issuing loans or otherwise, directly or indirectly, financing third persons in the acquisition of the stock of such company.

(2) [14 February 2002]

[14 February 2002]

#### **Section 242. Alienation and Cancellation of Own Stock Owned by a Company**

(1) If a company has acquired for itself its own stock in accordance with Section 240 of this Law, such stock shall be alienated within a period of one year from the day when they were acquired, except in the cases referred to in Section 240, Paragraph one, Clause 1 and Section 240, Paragraph four of this Law.

(2) If a company has acquired its own stock in violation of the provisions of Section 240 of this Law, such illegally acquired stock shall be alienated within a period of three months from the day when they were acquired.

(3) Own stock that is owned by a company and which was acquired in the cases referred to in Section 246, Paragraph one, Clause 3 of this Law shall be transferred to employees within a period of six months from the day when they were acquired.

(4) If a company does not alienate its own stock within the time periods specified in Paragraphs one, two and three of this Section, or if it has acquired stock in the case referred to in Section 240, Paragraph one, Clause 1 of this Law, such stock shall be cancelled, and correspondingly the equity capital shall be reduced in accordance with the provisions of Sections 262–265 of this Law.

### **Section 243. The Condition under which a Company Takes its Own Stock as Pledge**

(1) A company may take its own stock as a pledge only if it is fully paid-up.

(2) If the provisions referred to in Paragraph one of this Section are violated, then the members of the board of directors who are at fault shall be liable for full payment of the stock and for losses inflicted on third persons.

### **Section 244. Convertible Debentures**

(1) A company may issue convertible debentures which a debenture holder in a specified time period is entitled to exchange for the stock of such company.

(2) Convertible debentures may be issued both as registered and as bearer securities.

(3) The provisions of this Law in respect of convertible debentures shall also be applicable to other securities that can be exchanged for company stock.

[14 February 2002]

### **Section 245. Issuance of Convertible Debentures**

(1) A decision to issue convertible debentures shall be taken by a meeting of stockholders with not less than three-quarters of the equity capital with voting rights present.

(2) With the decision to issue convertible debentures the regulations for the issue of debentures shall also be approved, which shall indicate:

1) the number of debentures to be issued, the par value of one debenture and the total amount of par value;

2) the price of debentures;

3) the time period for conversion of debentures;

4) the interest which the company undertakes to pay to the debenture holder and their payment provisions (if such are provided for);

5) the procedures and time periods for the payment of debentures;

6) the procedures by which the debentures shall be exchanged for stock;

7) the rights of debenture holders; and

8) other provisions which are not in contradiction to law.

(3) Debenture holders shall acquire convertible debentures after their full selling price has been paid.

(4) A decision to issue convertible debentures shall be submitted to the Commercial Register Office not later than one month before the issuance of the debentures.

#### **Section 246. Priority Right of Convertible Debentures**

In the case of the issuance of convertible debentures, the stockholders of the company have a priority right to acquire such debentures.

[14 February 2002]

#### **Section 247. Register of Debenture Holders**

The board of directors shall maintain a record of the convertible debentures and their holders in a register of debenture holders. In the register of debenture holders shall be recorded:

- 1) information regarding debenture holders:
  - a) for a natural person – given name, surname, personal identity number and residential address, and
  - b) for a legal person – name, registration number and legal address;
- 2) the number of debentures owned by each debenture holder, their par value and ordinal number if such has been allocated; and
- 3) information regarding the conversion of the debentures.

#### **Section 248. Rights of Debenture Holders**

(1) Those rights of debenture holders, who own convertible debentures, shall be determined by this Law, the articles of association and the regulations for the issuance of debentures.

(2) Debenture holders have the right to become acquainted with the documents of the company according to the procedures and in the amount specified by a meeting of stockholders. They shall also have the right to take part at meetings of stockholders without voting rights and, in cases specified by law – in the taking of decisions.

### **Chapter 2**

#### **Increase and Reduction of Equity Capital**

#### **Section 249. Right to Increase or Reduce Equity Capital**

(1) The equity capital may be increased or reduced only on the basis of a decision of a meeting of stockholders, in which the regulations for an increase or reduction of the equity capital shall be approved, and amendments to the articles of association of the company made.

(2) If there are several categories of stock in a company, voting on a decision regarding an increase or reduction of the equity capital at a meeting of stockholders shall be in accordance with the provisions of Section 284, Paragraph three of this Law.

(3) A decision regarding an increase or reduction of the equity capital shall be taken, if not less than three quarters of the equity capital with voting rights represented at the meeting of stockholders have voted in favour of such decision.

#### **Section 250. Increase of Equity Capital**

(1) A company may increase its equity capital by issuing new stock in accordance with a decision to increase the equity capital and by opening subscription to them.

(2) The equity capital may only be increased after the previous issue of stock is fully paid-up.

(3) If stock of the new issue is paid-up by a property contribution, this contribution shall be evaluated and an expert's opinion shall be submitted regarding it in accordance with the procedures specified in Section 154 of this Law.

(4) [14 February 2002]

[14 February 2002]

### **Section 251. Priority Right of Stockholders**

(1) In the case of the increase of equity capital the current stockholders have priority right to purchase the newly issued stock in proportion to the total of the par value of the stock already owned by them.

(2) [14 February 2002]

(3) If any of stockholders do not exercise their priority right within the specified time period, the relevant newly issued stock shall be offered for subscription according to the procedures specified in the regulations for increasing equity capital, to those current stockholders who have already exercised their priority right.

[14 February 2002]

### **Section 252. Notice Regarding Priority Right of Stockholders**

(1) A notice regarding a priority right of stockholders to the newly issued stock shall be published in the newspaper *Latvijas Vēstnesis*.

(2) A company shall send a notice regarding their priority to the newly issued stock to all stockholders registered in the register of stockholders according to the procedures specified in Section 273, Paragraph two of this Law.

(3) If a company has only registered stock, then the notice referred to in Paragraph one of this Section is not mandatory, if the articles of association do not specify otherwise.

(4) The notice referred to in Paragraphs one and two of this Section shall indicate:

1) the firm name and legal address of the company;

2) the size of the equity capital and the planned amount by which the equity capital would be increased;

3) the category, number and par value of the stock to be issued;

4) the selling price of the stock; and

5) the time period during which the stockholders must exercise their priority right, and which may not be less than one month from the date when the notice is published, or in the case of registered stock – from the date when the notice was sent.

[14 February 2002]

### **Section 253. Restrictions on and Revocation of Priority Right of Stockholders**

(1) The priority right of stockholders may not be revoked or restricted by the memorandum of association, the articles of association or by a decision of a meeting of stockholders. In the cases of increasing equity capital provided for in Section 254, Paragraph two of this Law, stockholders shall not have priority rights.

(2) A decision of a meeting of stockholders regarding the organisation of the subscription of stock for the transfer to third persons (Section 260, Paragraph one), shall not be deemed to be a restriction of the priority right. These persons shall ensure the priority right of stockholders.

[14 February 2002]



## **Section 254. Increase of Equity Capital for a Special Purpose**

(1) The equity capital of a company is to be increased by determining that the newly issued stock shall be utilised for special purposes, which are indicated in the regulations for the increasing equity capital. In such cases the increase in the equity capital may not exceed the amount necessary for the special purpose.

(2) According to the procedures specified in Paragraph one of this Section, equity capital may be increased only for the following purposes:

- 1) for the exchange of newly issued stock for convertible debentures;
- 2) for the exchange of newly issued stock for the stock of a company to be merged in the case of a re-organisation;
- 3) as compensation to minority stockholders which as an exchange of stock is conducted by the dominant undertaking of a group of companies; and
- 4) [14 February 2002]
- 5) [14 February 2002]
- 6) for the issuing of employee stock.

(3) In increasing equity capital according to the procedures specified by this Section, the regulations for increasing equity capital shall in addition indicate the group of persons who have the right to acquire the newly issued stock, as well as in the cases referred to in Paragraph two, Clauses 1–3 of this Section – the exchange rate for such stock.

(4) The board of directors shall submit to the meeting of stockholders, which is examining the question of increasing equity capital for a special purpose, a justification for the necessity of such an increase.

[14 February 2002]

## **Section 255. Employee Stock**

(1) A company may issue employee stock. Employee stock may be acquired only by employees of the company and members of the board of directors.

(2) Employee stock may be only registered stock.

(3) Employee stock shall be issued on the account of the net profit of the company.

(4) The total par value of employee stock may not exceed 10 per cent of the registered equity capital of the company.

(5) A company in paying for employee stock, the own capital of the company may not become less than the registered capital.

(6) Employee stock does not give voting rights and rights to receive a liquidation quota.

(7) A stockholder may alienate employee stock if the articles of association do not specify restrictions.

(8) If employment legal relations between the company and an employee is terminated, or a member of the board of directors of the company is recalled or leaves office, the company has right of first refusal to acquire the employee stock of the employee or the member of the board of directors.

[14 February 2002]

## **Section 256. Increase of the Equity Capital by Replacing the Debts of a Company with its Stock**

[14 February 2002]

## **Section 257. Regulations for Increasing Equity Capital**

- (1) The regulations for increasing equity capital shall indicate:
- 1) the purposes of or reasons for increasing equity capital;
  - 2) the existing equity capital, categories of stocks, their number and par value;
  - 3) the intended increase of the equity capital (the announced equity capital);
  - 4) the category or categories of the stock of the new issue, as well as the rights which arise from these categories of stock, and the number of these stocks;
  - 5) the par value of the newly issued stock, the amount of mark up of the issue and the minimum first payment to be made when subscribing to the stock;
  - 6) the type of payment for the newly issued stock (in cash or by a property contribution);
  - 7) the category, number and the total of the par value of those newly issued stocks which shall be paid-up by property contributions, indicating each item of property contribution and its value;
  - 8) the subscription and payment time periods with the calculation that each of the newly issued stocks shall be fully paid-up not later than one year from the date of the decision to increase the equity capital was taken;
  - 9) the time period within which the existing stockholders may use their priority right in respect of the newly issued stock if they have such rights; and
  - 10) the place and time, where and when subscription to the stock shall take place.
- (2) Increasing equity capital for a special purpose, the information referred to in Paragraph one, Clause 8 of this Section need not be included in the regulations for increasing equity capital.

[14 February 2002]

## **Section 258. Notice to Stockholders regarding Increasing Equity Capital**

- (1) A company shall send the regulations for increasing equity capital to all stockholders recorded in the register of stockholders. If the company has also issued bearer stock, a notice regarding increasing equity capital shall be published also in the newspaper *Latvijas Vēstnesis*, indicating the place and time, where and when one may become acquainted with the regulations for increasing equity capital.
- (2) To the regulations for increasing equity capital shall be appended those document forms, which are necessary for the existing stockholders to exercise their priority right.
- (3) In cases specified by law, a company shall prepare a prospectus regarding the issue.

[14 February 2002]

## **Section 259. Par Value and Selling Price of Newly Issued Stock**

- (1) The par value of newly issued stock shall be determined in the regulations for increasing equity capital.
- (2) For each newly issued stock shall be paid the selling price of such stock, which shall be determined by the board of directors, but which may not be less than the par value of the stock. The selling price of stock is composed of the par value of the stock, and in the case referred to in Paragraph three of this Section – also the additional payment and the mark up of the issue. The board of directors may change the selling price of stock within limits provided for in the regulations for increasing equity capital.

(3) [14 February 2002]

[14 February 2002]

## **Section 260. Subscription to a New Issue of Stock**

- (1) A company may itself organise subscription to a new issue of stock or entrust the organisation to a third person (a bank, brokerage company, stock exchange and the like).
- (2) When subscribing to a new issue of registered stock, at least 25 per cent of the par value of subscribed new issue of stock, and all the additional payment and the mark up of the issue shall be paid, but the remainder of the amount shall be paid within the time periods specified in the regulations for increasing equity capital.
- (3) If the announced equity capital is not fully subscribed within the time periods specified in the regulations for increasing equity capital, the issue of stock shall be deemed to have taken place to the value of the subscribed stock, except in cases when such is not allowed for in the regulations for increasing equity capital.
- (4) If the issue of stock is recognised as not having taken place, the moneys collected shall be repaid to the subscribers of the stock.
- (5) If the issue of stock is recognised as having taken place only to the value of the subscribed stock, a meeting of stockholders shall make the relevant amendments to the articles of association.

## **Section 261. Application regarding an Increase of Equity Capital to the Commercial Register Office**

- (1) After the subscription time period according to the regulations for increasing equity capital has ended, the board of directors shall submit an application regarding an increase of the equity capital to the Commercial Register Office.
- (2) The notice shall have appended:
  - 1) an extract of the minutes of the meeting of stockholders with the decision to increase the equity capital and the regulations for increasing equity capital;
  - 2) the text of the amendments to the articles of association, as well as the full text of the revised articles of association;
  - 3) a notice from the board of directors regarding the situation of payments of equity capital; and
  - 4) documents certifying the valuation of each item of a property contribution and its transfer to the company (if the payment was made by property contribution).
- (3) Equity capital shall be deemed to have been increased from the date when a record is made in the Commercial Register.
- (4) Not later than within a period of five days after the end of the time period for paying up the stock, the board of directors shall submit a copy of the corrected register of stockholders to the Commercial Register Office, in which is reflected the stock payments situation after the increase of the equity capital.

## **Section 262. Reduction of Equity Capital**

- (1) Equity capital may be reduced:
  - 1) by the company itself acquiring and cancelling its own stock;
  - 2) by cancelling stock which have been submitted by stockholders; or
  - 3) by reducing the par value of stock.
- (2) Equity capital may not be reduced below the amount specified in Section 225, Paragraph one of this Law.
- (3) In the case when equity capital is to be reduced, the equity capital shall first of all be reduced on the account of the own stock owned by the company.

(4) In the case when equity capital is to be reduced, stockholders may be paid the par value of the cancelled stock only after the creditor protection measures specified in Section 264 of this Law have been fully implemented.

[14 February 2002]

### **Section 263. Regulations for the Reduction of Equity Capital**

(1) The regulations for the reduction of equity capital shall indicate:

- 1) the reasons for reducing equity capital;
- 2) the amount by which equity capital will be reduced;
- 3) the means of reducing the equity capital;
- 4) the number of stock to be cancelled or the amount by which the par value is to be reduced;
- 5) the time periods within which stock shall be returned or exchanged; and
- 6) if it is provided that a part of the equity capital shall be paid out to stockholders – the provisions for payments.

### **Section 264. Protection of Creditors in the Case of Reduction of Equity Capital**

(1) Within a period of five days from the date when a decision is taken to reduce the equity capital, the board of directors shall send a written notice regarding the reduction of equity capital and the new amount of equity capital to all known creditors of the company whose claim rights against the company have arisen prior to the taking of the decision to reduce the equity capital.

(2) The board of directors shall publish a notice regarding the decision taken to reduce equity capital in the newspaper *Latvijas Vēstnesis*. The notice shall indicate the time period within which creditors who wish to receive security may apply. The notice shall indicate a time period for the submission of creditor claims which may not be shorter than one month from the day of publication of the notice.

(3) The company shall provide security for creditors who have applied within the time periods specified (except the amount of secured claims of secured creditors).

### **Section 265. Application to the Commercial Register Office for the Reduction of Equity Capital**

(1) After the time period for the submission of creditor claims has expired, and the claims have been secured, the board of directors shall submit an application regarding reduction of equity capital to the Commercial Register Office. The application shall have appended to it the text of the amendment made to the articles of association and the full text of the revised articles of association.

(2) In the application, the board of directors shall certify the provision of security to creditors or the satisfaction of their claims.

(3) The application shall be submitted to the Commercial Register Office not later than after six months from the day when the decision regarding reduction of equity capital was taken.

(4) Equity capital shall be deemed to have been reduced from the day when the new amount of equity capital has been recorded in the Commercial Register.

## **Chapter 3**

### **Organisational Structure of a Company**

#### **Section 266. Institutions of a Company**

A company shall be administered by meetings of stockholders, a council and a board of directors.

#### **Section 267. Meeting of Stockholders**

(1) Stockholders exercise their rights to take part in the administration of the company at a meeting of stockholders.

(2) Regular and extraordinary meetings of stockholders shall be convened.

#### **Section 268. Competence of a Meeting of Stockholders**

(1) Only a meeting of stockholders has a right to take decisions regarding:

- 1) the annual accounts of a company;
- 2) the use of the profit from the previous year of activities;
- 3) the election and recall of members of the council, the auditor, the company controller, and liquidator;

4) the bringing of actions against members of the board of directors, the council and the auditor or withdrawing actions against them, as well as regarding the appointment of a representative of the company to maintain actions against members of the council;

5) [14 February 2002]

6) amending the articles of association of the company;

7) increasing or reducing equity capital;

8) the issuance and conversion of the company's securities;

9) specifying the remuneration for members of the council and the auditor; and

11) the termination of the activities of the company or their continuation or regarding the reorganisation of the company.

(2) A meeting of stockholders shall take decisions regarding other issues only if it is provided for by law.

[14 February 2002]

#### **Section 269. Regular Meeting of Stockholders**

(1) A regular meeting of stockholders shall take a decision regarding the annual accounts, on the reports of the board of directors and the council and on the use of the profit from the previous accounting year, as well as on other issues included in its agenda.

(2) A regular meeting of stockholders shall be convened by the board of directors each year. In convening a regular meeting the time period provided for by law for the approval of annual accounts shall be observed.

(3) If the board of directors has not convened a regular meeting of stockholders within the time period provided for, it may be convened by:

- 1) the council;
- 2) the Commercial Register Office; or
- 3) the liquidators.

(4) The Commercial Register Office shall convene a meeting of stockholders at the request of one or more stockholders, if the board of directors or the council of the company has not done it.

### **Section 270. Extraordinary Meeting of Stockholders**

(1) An extraordinary meeting of stockholders may be convened by the board of directors pursuant to its own initiative and shall be convened if it is requested by the council, the auditor or stockholders who jointly represent not less than one twentieth of the equity capital of the company, if a lower representation norm is not specified in the articles of association.

(2) In their request to convene an extraordinary meeting of stockholders, the initiators shall indicate the reasons for convening the meeting and the agenda. The request to convene a meeting shall be submitted to the board of directors and to the council, and the auditors shall be notified of it.

(3) The board of directors shall announce the convening of an extraordinary meeting of stockholders not later than within a period of two weeks from the day when it receives a request.

(4) If the board of directors does not convene an extraordinary meeting of stockholders within the time period referred to in Paragraph three of this Section, it may be convened by the other institutions and persons referred to in Paragraph one of this Section or by the Commercial Register Office.

[14 February 2002]

### **Section 271. Convening of a Meeting of Stockholders, if a Company has Suffered Losses**

If the losses of the company exceed half of the equity capital of the company, the board of directors shall notify the council regarding this and shall convene a meeting of stockholders, where it shall provide explanations. The meeting of stockholders shall decide regarding the covering of the losses, or shall take one of the following decisions:

- 1) to allocate appropriate security to creditors of the company;
- 2) to reduce equity capital;
- 3) to terminate the operations of and to liquidate or reorganise the company; or
- 4) to submit a petition for insolvency (if signs of insolvency have been determined).

[14 February 2002]

### **Section 272. Costs of Convening Meetings of Stockholders**

The company shall cover the costs related to the convening of meetings of stockholders.

### **Section 273. Procedures for Convening a Meeting of Stockholders**

(1) A notice regarding the convening of a meeting of stockholders shall be announced not later than 30 days prior to the planned meeting of stockholders.

(2) The notice regarding the convening of a meeting of stockholders shall be announced:

- 1) if the company has bearer stock – by publishing the announcement in the newspaper *Latvijas Vēstnesis* and in at least one other newspaper; and
- 2) if the company has also registered stock or only registered stock – by sending written notices to the stockholders recorded in the register of stockholders by registered mail.

- (3) The notice shall indicate:
- 1) the firm name and legal address of the company;
  - 2) the place and time of the meeting;
  - 3) the type of meeting (regular or extraordinary meeting);
  - 4) the institution which is convening the meeting;
  - 5) the activities which have to be conducted by the stockholders up to the meeting, in order that they may participate and vote;
  - 6) the provisions in the articles of association regarding the participation of representatives of stockholders at the meeting (if such provisions are provided for in the articles of association);
  - 7) the agenda; and
  - 8) the place and time, where and when stockholders may become acquainted with draft decisions on the issues included in the agenda, as well as with other issues to be examined at the meeting.
- (4) The notice which is sent to stockholders shall indicate the information referred to in Paragraph three, Clauses 1 – 7 of this Section, and shall have appended to it the draft decisions regarding amendments to the articles of association of the company (Paragraph six of this Section).
- (5) Stockholders have the right to receive copies of the draft decisions free-of-charge at 14 days before the meeting.
- (6) If it is planned to amend the articles of association at the meeting of stockholders, the draft decision of the meeting shall indicate, which articles in the articles of association have been recommended to be deleted or amended, and the revised version of these articles.
- [14 February 2002]

#### **Section 274.                    Agenda of a Meeting of Stockholders**

- (1) The issues to be included in the agenda of the meeting of stockholders shall be determined by the persons or the institution which initiated the meeting.
- (2) Stockholders who represent at least one twentieth of the equity capital of the company have the right, within seven days from the day of publication of the advertisement or within five days from the day when they receive the notice, to request the institution convening the meeting of stockholders to include additional issues in the agenda of the meeting.
- (3) The board of directors or another institution which is convening the meeting of stockholders shall include the additional issues in the agenda of the meeting of stockholders and shall announce them in the same manner as the notice regarding the convening of the meeting not later than fourteen days prior to the meeting.
- [14 February 2002]

#### **Section 275.                    Capacity to Act of a Meeting of Stockholders**

A meeting of stockholders is entitled to take decisions irrespective of the equity capital represented there if the articles of association do not specify a representation norm.

[14 February 2002]

#### **Section 276.                    Issues to be Examined at a Meeting of Stockholders**

- (1) A meeting of stockholders may take decisions only regarding those issues of the agenda which are indicated in the publication or notice regarding the convening of the meeting, except for the cases referred to in Paragraphs two and three of this Section.

(2) If all the equity capital with voting rights is represented at a meeting of stockholders, the meeting shall be deemed to have the capacity to act irrespective of the time and manner it was convened. Such meeting may also discuss issues not included in the agenda and to take decisions on them, if all the stockholders with voting rights unanimously agree to such.

(3) A meeting of stockholders may take decisions on the following issues (even if they are not included in the agenda):

1) recall of members of the council, the auditor, company controller or liquidator if at the same meeting new members of the council, a new auditor, company controller or liquidator are elected;

2) the bringing of actions against members of the council and of the board of directors, the company controller, liquidator or auditor if the issue of the annual accounts of the company is discussed during the same meeting; and

3) the convening of a new meeting.

(4) If a stockholder has submitted a written request to the board of directors at least seven days before the meeting of stockholders, the board of directors must provide to him or her, not later than three days before the meeting of stockholders, all the requested information regarding the issues included in the agenda. The board of directors may refuse to issue such information only if there are the reasons provided for in Section 283, Paragraph two of this Law. Disputes between stockholders and the board of directors on these issues, shall be decided by the meeting of stockholders.

[14 February 2002]

#### **Section 277. Participation at a Meeting of Stockholders**

(1) Stockholders may participate at a meeting of stockholders either in person or through a representative. A proxy shall be completed in writing and attached to the minutes of the meeting. A proxy may be submitted up to the beginning of the meeting. A special proxy is not necessary for persons who represent a stockholder on the basis of law. These persons shall present documents which certify their authorisation.

(2) It is the duty of members of the board of directors and the auditor, as well as at least one member of the council to participate in meetings of stockholders. Non-compliance with this provision shall not be a basis for regarding the meeting of stockholders as invalid, or to dispute decisions taken by the meeting.

[14 February 2002]

#### **Section 278. List of Stockholders**

(1) Not later than three days prior to a meeting of stockholders, the board of directors shall compile a list of stockholders which shall be accessible to stockholders.

(2) The list shall indicate:

1) the given name, surname, and personal identity number of the stockholder and his or her representative (if a proxy has been issued), but for legal persons – name and registration number;

2) the category, number and par value of stocks owned by the stockholder; and

3) the number of votes arising from the stock owned by the stockholder.

(3) Prior to the opening of the meeting of stockholders the board of directors shall compile a list of the stockholders who are participating in the meeting, indicating the information referred to in Paragraph two of this Section.



(4) The list of stockholders referred to in Paragraph three of this Section shall be signed by the authorised representative of the board of directors, and the stockholders shall be acquainted with it prior to the first vote.

[14 February 2002]

### **Section 279. Voting Rights of Stockholders**

(1) Each minimum par value stock with voting rights gives the right to one vote at a meeting of stockholders. A stockholder has voting rights in conformity with the total of the par values of the stock with voting rights belonging to them.

(2) In a meeting of stockholders, those stockholders shall have voting rights who are recorded in the list referred to in Section 278, Paragraph three of this Law.

(3) If a meeting of stockholders has to decide the issue of terminating the activities of the company, then the holders of preferential stock shall also have the right to vote on this issue.

(4) If a meeting of stockholders has to decide the issues of re-organisation of the company, increase or reduction of the equity capital, or amendments to the articles of association, then the holders of preferential stock shall also have the right to vote on these issues, if such issues may affect their interests.

[14 February 2002]

### **Section 280. Restrictions on Voting Rights**

(1) It may be provided for in the articles of association that only a certain amount of the par value of stock gives a right to one vote, if such provisions in the articles of association were in effect prior to the issuance of the stock.

(2) A stockholder shall not have voting rights, if:

1) he or she is a member of the council or of the board of directors or a liquidator – in the taking of a decision regarding the recall of him or her, or the expression of no confidence in him or her, or the bringing of an action against him or her;

2) a decision is to be taken in respect of rights which the company may utilise against him or her; or

3) a decision is to be taken regarding the release of him or her from obligations or liability towards the company.

4) [14 February 2002]

(3) The voting rights of a stockholder may also be restricted in other cases specified by law.

[14 February 2002]

### **Section 281. Void Stockholder Obligations**

Obligations shall be void, in which a stockholder undertakes:

1) to always fulfil the instructions of the company or its institutions;

2) to always accept the proposals of the company or its institutions; or

3) to base their attitude in voting on remuneration.

### **Section 282. Course of a Meeting of Stockholders**

(1) A meeting of stockholders shall be opened by the chairperson of the council or his or her deputy, but in the cases referred to in Section 269, Paragraph three, Clause 3 and Section 270, Paragraph four of this Law, by an official of the Commercial Register Office.

- (2) After the meeting of stockholders is opened, the stockholders with voting rights shall elect a chairperson of the meeting.
  - (3) On the basis of a proposal by the chairperson of the meeting of stockholders, the meeting shall elect tellers of votes.
  - (4) On the basis of a proposal of the chairperson of the meeting of stockholders, the meeting shall elect a meeting secretary (recorder of minutes).
  - (5) The meeting of stockholders shall also elect two stockholders with voting rights who shall attest to the correctness of the minutes of the meeting.
  - (6) Voting at the meeting of stockholders shall be open, except for cases when a secret ballot is requested by stockholders who represent at least one tenth of the equity capital.
- [14 February 2002]

### **Section 283. Information to be Submitted to a Meeting of Stockholders**

- (1) Pursuant to the request of stockholders, the board of directors has the duty to submit to a meeting information about the economic circumstances of the company to such an extent as is necessary to examine the relevant issue on the agenda and to objectively take a decision.
  - (2) A board of directors may refuse to submit this information only if:
    - 1) its disclosure may cause serious losses to the company or to its transaction partners;or
    - 2) such information is not to be disclosed in accordance with law or the articles of association.
  - (3) Even if the circumstances referred to in Paragraph two of this Section exist, the board of directors shall not refuse to submit information regarding:
    - 1) the profit and losses of the company;
    - 2) the solvency of the company;
    - 3) the development perspectives of the company; and
    - 4) concluded transactions between the company and stockholders, members of the council or members of the board of directors.
  - (4) Disputes regarding the refusal to disclose information by the board of directors shall be decided by a court.
- [14 February 2002]

### **Section 284. Taking of Decisions by a Meeting of Stockholders**

- (1) A meeting of stockholders shall take decisions by a majority of votes of the stockholders with voting rights present if the law does not specify a larger number of votes.
  - (2) Decisions regarding the making of amendments to the articles of association, the issuance of convertible debentures, the reorganisation of the company and the termination or continuation of operations shall be taken by a meeting of stockholders if not less than three quarters of the stockholders with voting rights present vote for them.
  - (3) If there are several categories of stock in a company, a decision on an issue which affects the rights of stockholders of the relevant category of stock shall be taken if the stockholders of each of the relevant categories of stock, by a majority of votes of the stockholders with voting rights present as specified by law, vote for it in each of such groups of stockholders.
  - (4) A decision of a meeting of stockholders in respect of the company, members of its council and its board of directors, the auditor, company controller and stockholders shall come into effect from the time of being taken if a different time period for the coming into effect of such decision is not specified in this decision or by law.
- [14 February 2002]

## **Section 285. Minutes of a Meeting of Stockholders**

- (1) The minutes of a meeting of stockholders shall indicate:
- 1) the firm name of the company;
  - 2) the time and place of the meeting of stockholders;
  - 3) the amount of the subscribed equity capital, paid-up equity capital and equity capital with voting rights of the company;
  - 4) the amount of the equity capital represented at the meeting of stockholders and the number of votes of stockholders with voting rights present;
  - 5) the given names and surnames of the chairperson of the meeting, secretary, tellers of the votes and the shareholders who will attest to the correctness of the minutes;
  - 6) the agenda of the meeting;
  - 7) the course and content of the discussion of the issues on the agenda;
  - 8) the decisions taken, indicating the number of votes given “for” and “against” each decision; and
  - 9) the objections by members of the council or of the board of directors, the auditor, the liquidator or stockholders.
- (2) The minutes shall be signed by the chairperson and secretary of the meeting of stockholders, as well as by at least two stockholders elected by the meeting who shall attest to the correctness of the minutes.
- (3) The list of stockholders which was compiled in accordance with Section 278 of this Law, and documents that pertain to the meeting of stockholders shall be appended to the minutes.
- (4) Stockholders have the right to become acquainted with the minutes and the documents appended to it and to receive a copy or an extract from the minutes free of charge.
- [14 February 2002]

## **Section 286. Declaration of a Decision Taken by a Meeting of Stockholders as Void**

- A court may declare a decision taken by a meeting of stockholders as void if:
- 1) it is in contradiction to the purposes of the company, the public interest or morality;
  - 2) it infringes the rights of third persons;
  - 3) it is in contradiction with law or the articles of association;
  - 4) the provisions of the law or of the articles of association regarding the convening of the meeting or the announcement of information associated with it have been violated;
  - 5) stockholders were unlawfully not allowed to participate in the meeting;
  - 6) stockholders were unlawfully not allowed to become acquainted with draft decisions, the list of stockholders participating at the meeting or the minutes of the meeting of stockholders;
  - 7) stockholders were unjustifiably refused the provision of information requested by them, if such has significantly affected their attitude regarding the relevant issue;
  - 8) the voting provisions were not observed at the meeting and thereby the results of the voting were significantly affected, or the provisions of law for the number of votes given were not observed; or
  - 9) the requirements referred to in Section 284, Paragraph three of this Law were not observed.
- [14 February 2002]

### **Section 287. Persons who have the Right to Bring an Action in Court**

(1) The following may bring an action in court to declare a decision taken by a meeting of stockholders as void:

1) the council, the board of directors or individual members of these institutions, as well as the auditor;

2) any stockholder – in the cases referred to in Section 286, Clauses 1, 2 and 3 of this Law if he or she has voted against the disputed decision and have requested that this be recorded in the minutes, but if the voting was by secret ballot – has objected to the disputed decision and has requested that this be recorded in the minutes;

3) a stockholder who did not take part in the meeting – in the cases referred to in Section 286, Clauses 4 and 5 of this Law;

4) a stockholder who was not allowed to become acquainted with the documents specified by law – in the case referred to in Section 286, Clause 6 of this Law;

5) a stockholder, to whom the provision of information requested by him or her was unjustifiably refused – in the case referred to Section 286, Clause 7 of this Law;

6) a stockholder who was not given an opportunity to vote or who disputes the right of another stockholder to vote or otherwise disputes the voting procedure – in the case referred to in Section 286, Clause 8 of this Law; and

7) an interested stockholder – in the case referred to in Section 286, Clause 9 of this Law.

[14 February 2002]

### **Section 288. Bringing of an Action**

(1) The time period for the bringing of an action to declare a decision of a meeting of stockholders as void shall be three months from the day of the meeting.

(2) If an action is brought by a stockholder who unlawfully was not allowed to participate in the meeting of stockholders, the time period for bringing an action shall be three months from the day when the stockholder found out or when he or she should have found out about the decision of the meeting, but not longer than one year from the day of the meeting.

(3) An action to declare a decision of a meeting of stockholders as void shall be brought against the company.

(4) If an action is brought by the board of directors or a member of the board of directors, the company shall be represented in court by the council.

### **Section 289. Procedures for Implementing a Court Adjudication Declaring a Decision of a Meeting of Stockholders as Void**

(1) After an adjudication by a court declaring a decision taken by a meeting of stockholders as void has come into legal effect, the court shall send the adjudication to the Commercial Register Office.

(2) If a court declares a decision taken by a meeting of stockholders as void, the company has the duty to submit to the Commercial Register Office an application regarding the amendment of the entry, which was made based upon the referred to decision of the meeting of stockholders.

**Section 290. Liability for Unjustifiably Disputing a Decision of a Meeting of Stockholders**

If plaintiffs have brought an action in bad faith or because of gross carelessness, they shall be solidarily liable for any losses incurred by the company due to the unjustified disputing of decision of a meeting of stockholders.

[14 February 2002]

**Section 291. Councils**

A council is the supervisory institution of a company, which represents the interests of stockholders during the time periods between the meetings of stockholders and supervises the activities of the board of directors within the scope specified in this Law and the articles of association.

**Section 292. Functions of a Council**

(1) The functions of a council are the following:

1) to elect and recall members of the board of directors and to continually supervise the activities of the board of directors;

2) to monitor that the business of the company is conducted in accordance with law, the articles of association and the decisions of the meeting of stockholders;

3) to examine the annual accounts of the company and the proposal of the board of directors for the use of the profits and to submit them, together with its own report, to the meeting of stockholders;

4) to represent the company in a court in all actions brought by the company against members of the board of directors as well as in actions brought by the board of directors against the company and to represent the company in other legal relations with members of the board of directors;

5) to approve the concluding of transactions between the company and members of the board of directors or the auditor; and

6) to examine in advance all issues which are within the competence of the meeting of stockholders or which, pursuant to the proposal of members of the board of directors or the council, have been proposed for discussions at the meeting, and to provide its opinion on such issues.

(2) Stockholders who jointly represent not less than one tenth of the equity capital of the company have the right to request of the council in writing, indicating the reasons, that the council examine the activities of the board of directors. If within a month the council has not carried out such examination or submitted a reply, the stockholders have the right to give this issue to the meeting of stockholders for examination.

(3) The council shall present a report to a meeting of stockholders in which the council has evaluated the activities of the company and the report of the board of directors, as well as, if necessary, express its proposals for the improvement of the activities of the company.

[14 February 2002]

**Section 293. Rights of a Council**

(1) The council has the right at any time to request that the board of directors report on the circumstances of the company and to become acquainted with all of the activities of the board of directors.

- (2) The council has the right to examine the company's registers and documents, as well as the cashier's office and all of the property of the company.
- (3) The council may entrust one of its members to perform an examination or invite experts to perform the examination or to clarify separate issues.
- (4) The council has the right to convene a meeting of stockholders or to request that the board of directors convene the meeting if the interests of the company so require.
- (5) The council does not have the right to decide issues, which are within the competence of the board of directors.

#### **Section 294. Consent of a Council for the Activities of the Board of Directors**

(1) It may be specified in the articles of association that the board of directors shall require the consent of the council to decide on issues of major importance. The following shall be deemed to be such issues of major importance:

- 1) acquiring participation in other companies and increasing or decreasing such participation;
- 2) acquisition or alienation of undertakings;
- 3) acquisition of immovable property, alienation or encumbering rights pertaining to property;
- 4) opening or closing of branches and representative offices;
- 5) concluding of such transactions as exceed the amounts specified in the articles of association or a decision of the council;
- 6) issuing of such loans as are not related to the usual commercial activities of the company;
- 7) issuing loans to employees of the company;
- 8) starting new kinds of activities or ceasing existing activities; and
- 9) determining the general principles for activities.

(2) A company may also provide for other issues in its articles of association, for the deciding of which the board of directors must receive the consent of the council.

(3) If the council rejects a proposal of the board of directors with respect to the issues referred to in Paragraphs one and two of this Section, the board of directors has the right to convene an extraordinary meeting of stockholders, which shall take a decision on the relevant issue.

(4) The fact that the board of directors has not received the consent of a council shall not be binding as to third persons. The announcement of the fact referred to or the existence of relevant provisions of the articles of association shall not be sufficient grounds to recognise this fact as binding on third persons, except in cases when the person knew that the consent of the council was necessary and that it was not given.

#### **Section 295. Composition of a Council**

(1) Only natural persons with the capacity to act may be council members.

(2) The following may not be council members:

- 1) members of the board of directors, the auditor, proctor or commercial representative of the company;
- 2) members of the board of directors of any dependent company of the company or any person with the right to represent the dependent company; or
- 3) a person who is already a council member in six other capital companies.

(3) The articles of association may specify stricter restrictions for council members.

(4) The minimum number of council members shall be three, but if the stock of the company is in public circulation – the minimum number of council members shall be five.

- (5) The maximum number of council members shall be twenty.
- (6) A council member may not entrust to another person the performance of his or her duties.

#### **Section 296. Election and Recall of Council Members**

- (1) The council shall be elected for a period which is not longer than three years.
- (2) A council member may not be elected without his or her written consent to serve as a council member. In his or her written consent, the council member candidate shall indicate any possible barriers specified by law or the articles of association for taking up the office, or that there are no such barriers for him or her.
- (3) Council members shall be elected to office for not longer than the time period of the authorisation of the council.
- (4) A stockholder or group of stockholders are entitled to nominate for election their candidates on the basis of a calculation such that by dividing the capital with voting rights represented by the stockholder or group of stockholders by the number of candidates to be nominated, each of the candidates shall have not less than five per cent of the capital with voting rights represented at the meeting of stockholders. Each of such nominated candidates shall be included in the council members voting list.
- (5) Voting shall take place in one ballot for all the council member candidates included on the list. A stockholder is entitled to give his or her vote for one or more of the candidates included in the list in any proportion of whole numbers.
- (6) As elected to the council shall be considered those persons who have gained the most votes, taking into account the maximum number of council members specified in the articles of association. If two or more council member candidates have gained an equal number of votes and therefore it cannot be determined which of them is to be considered elected, the issue shall be decided by a vote of the meeting of stockholders for each of these candidates, and as elected shall be considered that candidate who in the repeated ballot has gained the largest number of votes.
- (7) Council members may be recalled from their office at any time by a decision of a meeting of stockholders.
- (8) A member of the council may withdraw from his or her office at any time, submitting a notice to the company.
- (9) If a council member leaves his or her office or is recalled from office before the expiration of the time period of the council, new council member elections shall take place in which the whole composition of the council shall be re-elected.
- (10) The board of directors shall inform the Commercial Register Office regarding changes in the composition of the members of the council and submit a list of council members and the relevant decision of a meeting of stockholders or the relevant council member notice.

[14 February 2002]

#### **Section 297. Management of a Council**

- (1) Members of the council shall elect a chairperson of the council and at least one deputy chairperson.
- (2) A deputy chairperson of the council shall perform the duties of the chairperson of the council only if the chairperson of the council is absent (illness, business trip, vacation and the like), or has assigned such a task.

### **Section 298. Convening of Council Meetings**

- (1) The chairperson of the council shall convene council meetings, but in his or her absence or by assignment – his or her deputy, according to necessity, but not less than once per quarter.
- (2) Every council member, as well as the board of directors, has the right to request the council to convene a meeting, substantiating the necessity to convene a meeting and its purpose.
- (3) If the chairperson of the council does not fulfil the request regarding the convening of a council meeting within two weeks from the time of its receipt, the initiator of the meeting has the right to convene a council meeting, explaining the circumstances of the matter.

### **Section 299. Taking of Decisions by a Council**

- (1) A council shall be entitled to take decisions if more than one half of the council members participate at the council meeting. If a council is composed of fewer members than is provided for in the articles of association, the quorum shall be determined according to the number of council members specified in the articles of association.
- (2) A council shall take its decisions by a simple majority of votes of those present, if the articles of association do not specify a larger majority of votes.
- (3) A council member who does not take part in a council meeting, may give his or her vote in writing, submitting it to another council member. Voting may be done by telephone or other means only if the means of communication utilised allows council members to simultaneously participate in the discussion of the issue and the taking of the decision, and if such activities are appropriately documentarily recorded.
- (4) Minutes shall be taken of council meetings. The minutes shall indicate:
  - 1) the firm name of the company;
  - 2) the place and time of the council meeting;
  - 3) the participants at the meeting;
  - 4) the issues on the agenda;
  - 5) the course and content of the discussion of the issues on the agenda;
  - 6) the results of the voting, indicating each council member's vote "for" or "against" each decision; and
  - 7) the decisions taken.
- (5) If a council member disagrees with a decision of the council and votes against it, his or her differing view shall be recorded in the minutes of the council meeting pursuant to his or her request.
- (6) The minutes of a council meeting shall be signed by the members of the council who participated in the relevant meeting of the council.

[14 February 2002]

### **Section 300. Remuneration for Council Members**

The meeting of stockholders shall determine the remuneration for council members.

### **Section 301. Board of Directors**

- (1) A board of directors is the executive institution of a company, which manages and represents the company.



(2) A board of directors shall supervise and manage the affairs of a company. It shall be responsible for the commercial activities of the company, as well as for accounting, in compliance with law.

(3) A board of directors shall administer the property of the company and shall act with its means according to the requirements of law, the articles of association and decisions of meetings of stockholders.

### **Section 302. Rights of a Board of Directors to Manage a Company**

The members of a board of directors shall manage the company only jointly.

### **Section 303. Representation Rights of a Board of Directors**

(1) All members of the board of directors have representation rights. Members of the board of directors shall represent the company jointly if the articles of association do not specify otherwise. The articles of association may specify that the company is represented by the members of the board of directors jointly with the proctor.

(2) In the case of joint representation, the members of the board of directors may authorise from among themselves one or more members of the board of directors to conclude specific transactions or specific types of transactions. This provision shall be appropriately applied also when the company is represented by the members of the board of directors jointly with the proctor.

(3) The representation rights of the board of directors in respect of a third person may not be restricted. The rights of the members of the board of directors, which are specified in the articles of association, to represent the company jointly or individually, or jointly with the proctor shall not be deemed to be restrictions of the representation rights of the board of directors within the meaning of this Section.

(4) In relation to the company, the board of directors shall observe the restrictions of representation rights, which are specified in the articles of association, and by decisions of the meeting of shareholders and of the council.

[14 February 2002]

### **Section 304. Composition of a Board of Directors**

(1) A board of directors shall consist of at least three members.

(2) Only natural persons with the capacity to act may be members of a board of directors.

(3) The following may not be members of a board of directors:

1) members of the council of the company;

2) the auditor of the company;

3) a person who, by a judgment of a court, has been deprived of the right to conduct the relevant type or all types of commercial activities; and

4) a member of the council of the dominant undertaking of a group of companies.

(4) The articles of association may provide for stricter restrictions to be applied to members of the board of directors.

(5) Not less than one half of the members of the board of directors shall be persons with a permanent place of residence in Latvia.

**Section 305. Election of Members of a Board of Directors and Specification of Representation Rights**

- (1) Members of a board of directors shall be elected by the council.
- (2) A member of a board of directors may not be elected without his or her written consent to become a member of the board of directors. In his or her written consent, the member of the board of directors candidate shall indicate any existing barriers to the taking up of the office in accordance with Sections 171 and 304 of this Law, or that there are no such barriers for him or her.
- (3) Members of a board of directors shall be elected to office for three years if the articles of association do not specify a shorter term.
- (4) The council shall appoint the chairperson of the board of directors from among the members of the board of directors.
- (5) [14 February 2002]  
[14 February 2002]

**Section 306. Recall of Members of a Board of Directors and Their Rights to Withdraw from Office**

- (1) Members of a board of directors may be recalled by the council if there are important reasons.
- (2) Such important reason shall, in any case, be considered to be gross violations of authority, failure to perform or to appropriately perform his or her duties, an inability to manage the company, or causing harm to the interests of the company, as well as loss of confidence expressed at a meeting of stockholders.
- (3) A member of a board of directors may at any time submit a notice regarding withdrawing from the office of a member of the board of directors.  
[14 February 2002]

**Section 307. Announcement of Changes in the Composition of a Board of Directors and Representation Rights**

The board of directors shall declare changes in the composition of the board of directors and representation rights to the Commercial Register Office, submitting a list of members of the board of directors and the relevant decision of the council or the notice of the member of the board of directors.  
[14 February 2002]

**Section 308. Remuneration of Members of a Board of Directors**

- (1) Members of a board of directors have the right to receive remuneration according to the scope of their duties and the financial circumstances of the company.
- (2) The amount of remuneration for members of the board of directors shall be determined by the council.  
[14 February 2002]

**Section 309. Restrictions on Members of a Board of Directors of a Company**

- (1) [14 February 2002]
- (2) [14 February 2002]

(3) If there is a conflict of interest between the company and a member of the board of directors, his or her spouse, kin or in-laws, counting kinship up to the second degree and affinity up to the first degree, the issue shall be decided at a board of directors meeting, in which the interested member of the board of directors shall not have voting rights, and this shall be noted in the minutes of the board of directors meeting. A member of the board of directors has a duty to notify of such interests before the beginning of a board of directors meeting. A member of the board of directors who violates this requirement shall be liable for losses incurred by the company.

[14 February 2002]

### **Section 310. Taking of Decisions by a Board of Directors**

(1) A board of directors has the right to take decisions if more than one half of the members of the board of directors take part in the meeting of the board of directors. If the board of directors has fewer members than provided for in the articles of association, the quorum shall be determined according to the number of members of the board of directors specified in the articles of association.

(2) The board of directors shall take its decisions with simple majority of votes of those present, if the articles of association do not specify a larger majority of votes.

(3) The board of directors meeting shall be recorded in minutes. The minutes shall indicate:

- 1) the firm name of the company;
- 2) the place and time of the meeting;
- 3) the participants at the meeting;
- 4) the issues on the agenda;
- 5) the course and content of the discussion of the issues on the agenda;
- 6) the results of the voting, indicating the vote of each member of the board of the directors “for” or “against” each decision; and
- 7) the decisions taken.

(4) If a member of the board of directors disagrees with a decision of the board of directors and votes against such, his or her different opinion shall be recorded in the minutes of the meeting at his or her request.

(5) The minutes of a board of directors meeting shall be signed by the chairperson of the board of directors and all the members of the board of directors who participated in the meeting.

### **Section 311. Report of a Board of Directors**

(1) The board of directors has a duty to report in writing regarding its activities to the council once every quarter, but at the end of the year – to a meeting of stockholders. The report shall reflect:

- 1) the results of the commercial activities of the company;
- 2) the economic circumstances of the company, profitability, turnover and movement of securities;
- 3) the circumstances, which could have impact upon the economic circumstances of the company; and
- 4) the planned policies for commercial activities of the company in the next accounting period.

(2) The board of directors shall inform the council also regarding other significant aspects of the company’s activities.

**Division XIV**  
**Termination of Operations and Liquidation of Capital Companies**

**Section 312. Grounds for Terminating the Operations of a Capital Company**

The operations of a capital company (hereinafter in this Division – company) shall be terminated:

- 1) by a decision of shareholders;
- 2) by an adjudication of a court;
- 3) with the commencement of bankruptcy procedures;
- 4) with the termination of the time period specified in the articles of association (if the company was founded for a definite time period);
- 5) having achieved the purposes specified in the articles of association (if the company was founded to achieve specified purposes); or
- 6) in other cases as specified by law or the articles of association.

**Section 313. Termination of Operations of a Company based upon a Decision of Shareholders**

- (1) A decision regarding the termination of the operations of a company shall be taken at a meeting of shareholders.
- (2) The board of directors has the duty to provide to the shareholders a report regarding the previous accounting year and regarding the operations of the company in the current year.
- (3) In the report on economic activities, the time period during which the company may satisfy the claims of its creditors shall be indicated.

**Section 314. Termination of Operations of a Company based upon an Adjudication of a Court**

- (1) The operations of a company may be terminated based upon an adjudication of a court if:
  - 1) the documents of incorporation of the company are in contradiction to law;
  - 2) the equity capital of the company does not comply with the requirements of law;
  - 3) the company has not submitted to the Commercial Register Office the information or documents required by law;
  - 4) the shareholders have not taken a decision regarding the termination of the operations of the company in cases when they should have done so in accordance with law or the articles of association;
  - 5) for more than three months the board of directors has not had representation rights (Section 224, Paragraph three and Section 305, Paragraph three); or
  - 6) in other cases specified by law.
- (2) An action in a court may be brought by the board of directors, the council, a member of the board of directors, a shareholder, the Commercial Register Office, as well as other persons specified by law.
- (3) The Commercial Register Office may bring an action in a court if the company has not rectified indicated violations within a period of three months after receiving a written warning.
- (4) Up to the time of the taking of a decision regarding the termination of the operations of a company, a court may specify a time period within which the company must rectify the deficiencies, which would be the grounds for the termination of its operations.

**Section 315. Termination of Operations of a Company in the Case of Bankruptcy**

Procedures by which the operations of a company shall be terminated in the case of bankruptcy, shall be regulated by a separate law.

**Section 316. Continuation of the Operations of a Company after the Expiration of the Time Period for Operations or after the Achievement of Purposes**

If the time period for the operations of a company, as specified in the documents of incorporation, expires or if the specified purpose has been achieved, the shareholders may take a decision to continue operations, or to reorganise the company and make the necessary amendments to the documents of incorporation.

**Section 317. Liquidation**

In the case of the termination of the operations of a company, it shall be liquidated if the law does not specify otherwise.

**Section 318. Appointment of Liquidators**

(1) Liquidation shall be performed by the members of the board of directors if the articles of association, the decision of a meeting of shareholders or an adjudication of a court does not specify otherwise.

(2) If a meeting of shareholders appoints a liquidator, it shall determine the amount of and procedures for the remuneration of the liquidator.

(3) If the operations of a company are terminated on the basis of an adjudication of a court, or if it is requested by shareholders who represent not less than one tenth of the equity capital, the liquidator shall be appointed and the amount of and procedures for the remuneration of the liquidator shall be determined by the court.

(4) One liquidator or several liquidators may be appointed.

**Section 319. Requirements Set for Liquidators**

(1) A natural person with the capacity to act may be a liquidator.

(2) At least one of the liquidators shall be a person with a permanent place of residence in Latvia.

**Section 320. Application regarding the Termination of the Operations of a Company and its Liquidation**

(1) Within three days from the date when a decision has been taken on the termination of the operations of a company, the decision shall be submitted for recording in the Commercial Register. The application shall have appended:

1) an extract of the minutes of the meeting of shareholders with the decision regarding the termination of the operations of the company;

2) the information regarding the liquidator referred to in Section 8 of this Law; and

3) a notarised sample signature of the liquidator.

(2) If the operations of the company are wound up on the basis of an adjudication of a court, the court shall send the relevant adjudication for a recording to be done in the Commercial Register. The liquidator shall, within three days from the coming into effect of the adjudication of the court, submit the information and documents referred to in Paragraph one, Clauses 2 and 3 of this Section to the Commercial Register Office.

(3) If the liquidation is carried out by members of the board of directors, this fact shall be indicated in the application or the adjudication of a court, and the information and documents referred to in Paragraph one, Clauses 2 and 3 of this Section need not be appended.

### **Section 321. Removal of Liquidators**

(1) Liquidators may be removed by a decision of the meeting of shareholders.

(2) Liquidators may be removed by a court adjudication based on the application of a shareholder or a third person if there are sufficiently serious grounds, and concurrently appointing a new liquidator.

(3) A liquidator appointed by a court may only be removed by an adjudication of the court based upon the application of a shareholder or a third person if there are sufficiently important reasons therefor, and concurrently appointing a new liquidator.

(4) The decision to remove a liquidator shall be submitted by the new liquidator to the Commercial Register Office within three days from the day when the decision was taken.

### **Section 322. Rights and Duties of Liquidators**

(1) Liquidators shall have all the rights and duties of the board of directors and the council which are not in contradiction with the purposes of the liquidation.

(2) Liquidators shall collect debts including amounts, which are due the company regarding unpaid capital shares, sell the property of the company and satisfy the claims of creditors.

(3) Liquidators may only conclude such transactions as are necessary for the liquidation of the company.

(4) If the liquidation of a company is performed by several liquidators, they have the right to represent the company only jointly. Liquidators may authorise one or several persons from among themselves for the performance of particular activities or particular types of activities.

(5) Any restrictions on representation of a liquidator, if not provided by law, shall not be binding on third persons.

(6) During the liquidation, the word “likvidējamā” [under liquidation] must be added to the firm name of the company.

### **Section 323. Submission of an Insolvency Petition**

If it is found during the course of the liquidation that the property of the company is not sufficient to satisfy all the legitimate claims of creditors, the liquidator has a duty to submit an insolvency petition in accordance with the procedures specified by law.

### **Section 324. Informing the Creditors**

(1) The Commercial Register Office shall, at the expense of a company under liquidation, in accordance with the procedures specified in Section 11 of this Law, announce a notice regarding the termination of the company’s operations and the commencement of liquidation.

(2) The liquidator shall send a notice regarding the commencement of the liquidation to all known creditors of the company.

(3) In the notice referred to in Paragraphs one and two, the creditors of the company shall be invited to submit their claims within three months after the day of publication of the notice if a longer period of time for submissions by creditors has not been specified in a decision of a meeting of shareholders or an adjudication of a court.

### **Section 325. Submission of Claims**

Creditors shall submit their claims against the company to the liquidator within the specified time period. In the claims, creditors shall state the contents of their claims, the basis and amount, and append documents on which the claims are based.

### **Section 326. Liquidation Initial Financial Accounts**

After the end of the time period for submission of creditor claims, the liquidator shall compile a liquidation initial financial account.

[14 February 2002]

### **Section 327. Protection of Creditors**

(1) If a known creditor has not submitted his or her claim, does not accept fulfilment or the obligation is not ripe for fulfilment, the amounts due to him or her shall be deposited in a court.

(2) When there exist disputable creditor claims, the property of the company may be divided among the shareholders only if the relevant creditor is given security.

### **Section 328. Closing Financial Accounts and Plan for Division of Property**

(1) After the claims of creditors have been satisfied or the monies due them are deposited and the liquidation expenditures have been covered, the liquidator shall compile a liquidation closing financial account and a plan for the division of the remaining property, in which a liquidation quota shall be determined.

(2) An auditor shall examine the liquidation closing financial account and the plan for division of the remaining property. For limited liability companies, an examination by an auditor shall be performed if, in accordance with the articles of association of the company, it is provided that the annual accounts of the company shall be examined by an auditor or if it is so decided by a meeting of shareholders.

(3) The liquidator shall send the liquidation closing financial account and the plan for division of the remaining property to all shareholders. The notice to the holders of bearer stock shall be published in the newspaper *Latvijas Vēstnesis*, indicating the place where the liquidation closing financial account and the plan for division of the remaining property are accessible.

(4) If violations of the law, the articles of association or the decisions of a meeting of shareholders have been made in the preparation of the liquidation closing financial account and the plan for division of the remaining property, a court, based upon an action by an interested person, may decide regarding the preparation of a new liquidation closing financial account and plan for division of the remaining property or the performance of additional liquidation activities. The time period for bringing an action shall be two months from the day when the liquidation closing financial account and the plan for division of the remaining property were sent to shareholders, but in relation to holders of bearer stock – two months from the day of publication of the notice.

[14 February 2002]

### **Section 329. Preservation of Company Documents**

A liquidator shall perform the necessary activities for the organisation of the company documents and their transfer to the State archives. Expenditures which are associated with the organisation of the documents and transfer to the archives shall be paid from the property of the company to be liquidated.

### **Section 330. Division of the Remaining Property of the Company**

(1) The remaining property of the company shall be divided among the shareholders in accordance with the plan for division of the remaining property prepared by the liquidator, in proportion to the shares owned by each shareholder, if the founding documents do not specify otherwise.

(2) The property may be divided not earlier than six months after the day when the notice of the termination of the operations of the company has been published, and two months from the day when the liquidation closing financial account and the plan for division of the remaining property has been sent to shareholders or a notice was published regarding the opportunity to become acquainted with them (if such publication is required by law).

(3) A court may permit the conducting of a division of the remaining property before the expiration of the time periods referred to in Paragraph two, if no losses would be incurred by creditors thereby.

(4) All disbursements to the shareholders shall be conducted in money, if the articles of association do not specify otherwise.

(5) Liquidators also may not sell property if it is not necessary for satisfaction of the claims of creditors and if it is specified in the decision on the termination of the operations of the company.

[14 February 2002]

### **Section 331. Continuation of the Operations of a Company**

(1) If a company is liquidated on the basis of the provisions referred to in the articles of association of the company regarding the termination of the operations of the company or a decision taken by a meeting of shareholders, the shareholders, up to the commencement of the division of property may take a decision regarding the continuation of the operations of the company or its reorganisation. The decision shall be considered as taken if it is voted for by the shareholders present with the same number of votes as is provided for the taking of a decision on the termination of the company's operations.

(2) In taking a decision on the continuation of the operations of the company, the board of directors and the council of the company shall also be formed concurrently, as well as the equity capital of the company shall be reduced in conformity with the amount of the remaining property. If the amount of the remaining property is less than the minimum amount of equity capital as specified by law, the meeting of shareholders shall decide on an increase of the equity capital.

(3) The liquidator shall submit to the Commercial Register Office an application regarding the continuation of the operations of the company. The decision on the continuation of the operations of the company shall come into effect after its recording in the Commercial Register.



### **Section 332. Deletion from the Commercial Register**

(1) After the division of the remaining property of the company, the liquidator shall submit an application for the completion of liquidation to the Commercial Register Office. The liquidation closing financial account and the plan for division of the remaining property, as well as the opinion of the auditor (if an audit examination was performed), shall be appended to the application.

(2) In the application, the liquidator shall certify that:

1) the liquidation closing financial account and the plan for division of the remaining property have not been disputed in a court or that an action was rejected;

2) all the creditors' claims have been satisfied or that the amounts to meet the claims were deposited; and

3) the documents of the company were transferred to the archive for preservation.

[14 February 2002]

### **Section 333. Liability of Liquidators**

(1) A liquidator shall be liable for any losses incurred through his or her own fault.

(2) If there are several liquidators, they shall be solidarily liable for the losses incurred through their own fault.

## **Part C**

### **Reorganisation of Commercial Companies**

#### **Division XV**

#### **General Provisions for the Reorganisation of Commercial Companies**

### **Section 334. Definition and Types of Reorganisation**

(1) A commercial company (hereinafter in this Division – company) may be reorganised by way of merging, division or restructuring.

(2) Companies involved in the reorganisation process may be companies of the same type or various types if the law does not specify otherwise.

### **Section 335. Merging of Companies**

(1) Merging of companies may take the form of acquisition or consolidation.

(2) Acquisition is a process in which a company (the acquired company) transfers all of its property to another company (the acquiring company).

(3) Consolidation is a process in which two or more companies (acquired companies) transfer all of their property to a newly founded company (the acquiring company).

(4) In the case of merging, the acquired company ceases to exist without liquidation procedures.

(5) In the case of merging, all the rights and obligations of the acquired companies are transferred to the acquiring company.

(6) In the case of merging, the shareholders or members (hereinafter in this Division – shareholders) of the acquired companies shall become shareholders of the acquiring company.

### **Section 336. Division of Companies**

- (1) Division is a process in which a company (the dividing company) transfers all of its property to one company or more other companies (the acquiring companies) through splitting up or divestiture.
- (2) In the case of splitting up, the dividing company transfers all of its property to two or more acquiring companies and ceases to exist without liquidation procedures.
- (3) In the case of splitting up, shareholders of the dividing company shall become shareholders of the acquiring company in accordance with a decision regarding the splitting up of the company.
- (4) In the case of divestiture, the dividing company transfers part of its property to one or more acquiring companies. In the case of divestiture, the dividing company shall continue to exist.
- (5) In the case of divestiture, all the shareholders of the dividing company or part of them become shareholders of the acquiring company, or the dividing company may become the sole shareholder of the acquiring company in accordance with a decision regarding the divestiture of the company.
- (6) The acquiring company may be an already existing company or a company to be newly founded.

### **Section 337. Restructuring of Companies**

- (1) Restructuring is a process in which one type of company (the restructured company) is restructured into a different type of company (the acquiring company).
- (2) In the case of restructuring, all the rights and obligations of the restructured company are transferred to the acquiring company.
- (3) In the case of restructuring, the shareholders of the restructured company become shareholders of the acquiring company.
- (4) In the case of restructuring, the restructured company ceases to exist without liquidation procedures.

## **Division XVI Reorganisation Procedures**

### **Section 338. Reorganisation Agreement**

- (1) If two or more already existing companies are involved in the reorganisation process, they shall enter into a reorganisation agreement (hereinafter – agreement).
- (2) The agreement shall indicate:
  - 1) the firm names, legal addresses and registration numbers of all the companies involved in the reorganisation;
  - 2) the companies' capital shares (stocks) exchange coefficient and the amount of premium (if such is provided for);
  - 3) the division of the capital shares (stocks) among the shareholders of the acquiring company;
  - 4) the provisions for the transfer of the capital shares (stocks) of the acquiring company to the shareholders of the companies to be acquired, divided or restructured;
  - 5) the time from which the capital shares (stocks) transferred give a right to receive dividends or a profit share from the acquiring company and any provisions affecting this time (if such is provided for);

6) the rights granted by the acquiring company to stockholders of the acquired, dividing or restructured company who own preference stock, and debenture holders, who own convertible debentures;

7) the day from which the transactions of the acquired, dividing or restructured company shall be included in the accounting of the acquiring company and shall be regarded as transactions of the acquiring company;

8) the consequences of reorganisation for the employees of the acquired, dividing or restructured company; and

9) the activities to be conducted in the reorganisation process and the time periods for conducting them.

(3) If all the capital shares (stocks) of the acquired or dividing company are owned by the acquiring company, the information referred to in Paragraph two, Clauses 2, 3, 4 and 5 of this Section shall not be included in the agreement.

(4) If the agreement provides for conditions precedent and if these conditions do not come into effect within a period of three years from the day when the agreement is entered into, each of the companies involved in the reorganisation process may unilaterally withdraw from the agreement notifying the other contracting parties not later than six months in advance, if a shorter period for notice is not specified in the agreement.

(5) Each of the companies involved in the reorganisation process shall submit a notice of reorganisation, with the draft agreement appended, to the Commercial Register Office.

### **Section 339. Reorganisation Prospectus**

(1) Each of the companies involved in the reorganisation process shall prepare in writing a reorganisation prospectus (hereinafter – prospectus), in which the following is indicated and explained:

1) the provisions of the draft agreement;  
2) the legal and economic aspects of the reorganisation;  
3) the capital shares (stocks) exchange coefficient and the amount of premium (if such is provided for); and

4) the methods utilised to determine the capital shares (stocks) exchange coefficient and the amount of premium, as well as problems which arose in the utilisation of these methods.

(2) Companies may prepare a joint prospectus.

### **Section 340. Auditor Examination**

(1) The Commercial Register Office shall appoint an auditor from their approved list, who shall check the draft agreement of companies involved in the reorganisation process. The companies involved in the reorganisation process may jointly request that the Commercial Register Office appoint one auditor for all the companies.

(2) An auditor may be a person who in accordance with law has the right to conduct an examination of the annual accounts of a company.

(3) The auditor shall not examine the draft agreement of the acquired or dividing company if all the capital shares (stocks) of the acquired or dividing company are owned by the acquiring company, as well as in the cases referred to in Sections 363 and 368 of this Law.

(4) The companies which are involved in a reorganisation process shall ensure that the auditor has access to all the documents and information which have significance for performing the duties of an auditor.

### **Section 341. Opinion of the Auditor**

(1) The auditor shall draft a written opinion regarding the results of the examination of the draft agreement and shall submit it to the company. If one auditor is appointed for all the companies, he or she shall submit the opinion to all the companies.

(2) The following shall be indicated in the opinion:

- 1) whether all the necessary documents were submitted to the auditor;
- 2) whether the capital shares (stocks) exchange coefficient and the amount of premium are fair and justified;
- 3) whether the reorganisation may cause losses to the creditors of the company;
- 4) whether the methods which were used to determine the capital shares (stocks) exchange coefficient and the amount of premium are adequate; and
- 5) special problems which have arisen in the application of the valuation methods used.

### **Section 342. Liability of the Auditor**

The auditor shall be liable for losses incurred through his or her fault while conducting the examination.

### **Section 343. Decision Regarding Reorganisation**

(1) A meeting of shareholders of each of the companies involved in the reorganisation process shall examine the draft agreement and take a decision regarding reorganisation.

(2) If amendments in relation to the reorganisation need to be made in the articles of association of a capital company or in a partnership agreement, a decision regarding such amendments shall be taken concurrently with the decision on reorganisation.

(3) For not less than one month before the day of the meeting of shareholders regarding approval of the agreement is to be held, all shareholders shall be given an opportunity to become acquainted to the following documents at the legal address of the company:

- 1) the draft agreement;
- 2) the prospectus;
- 3) the opinion of the auditor;
- 4) the annual accounts of all the companies involved in the reorganisation process for the last three accounting years; and
- 5) the report about the commercial activities of the company and the extraordinary balance sheet which shall be prepared not earlier than three months before the reorganisation notice is submitted to the Commercial Register Office if the previous annual accounts were completed more than six months before the submission of the notice.

(4) The report about the commercial activities of the company and the extraordinary balance sheet referred to in Paragraph three, Clause 5 of this Section shall be compiled in accordance with the requirements of law regarding the preparation of annual accounts.

(5) Shareholders have the right to receive copies of or extracts from the documents referred to in Paragraph three of this Section free of charge.

(6) At the meeting of shareholders of a capital company, the board of directors of the company shall, pursuant to a request by the shareholders, submit explanations regarding the draft agreement and prospectus, regarding the legal and economic consequences of the reorganisation, as well as information regarding the other companies involved in the reorganisation process.

- (7) The decision regarding reorganisation shall be compiled in the form of a separate document.
- (8) On the basis of a decision regarding reorganisation the relevant company shall enter into an agreement.
- (9) A list of those shareholders (with their signatures), who voted in the meeting of shareholders against the decision on reorganisation shall be appended to the decision regarding reorganisation.

#### **Section 344. Duty to Inform**

The board of directors of the acquired or dividing company have a duty to inform the general meeting and the acquiring company regarding all substantial changes in the status of the property of the acquired or dividing company which have occurred up to the expiry of the powers of the board of directors or up to the time the reorganisation comes into effect.

#### **Section 345. Protection of Creditors**

- (1) Within fifteen days from the day when a decision is taken regarding reorganisation, each of the companies involved in the reorganisation process shall inform in writing all of its known creditors which have had claim rights against the company up to the taking of the decision regarding reorganisation.
- (2) Each of the companies involved in the reorganisation process has a duty to publish in the newspaper *Latvijas Vēstnesis* a notice that a decision on reorganisation has been taken. The notice shall indicate:
- 1) the firm name, registration number and legal address of the company;
  - 2) the firm names, registration numbers and legal addresses of the other companies involved in the reorganisation;
  - 3) the type of reorganisation;
  - 4) the fact that a decision on reorganisation has been taken; and
  - 5) the place and time period for creditors to submit their claims, which may not be less than one month from the day when the notice is published.
- (3) The acquired or dividing company shall secure the claims of creditors if so requested and submitted by them within the time period in the notice referred to in Paragraph two of this Section.
- (4) Creditors of the acquiring company may request to have their claims secured only if they can prove that the reorganisation threatens the satisfaction of their claims.
- (5) Secured creditors may request security only for the amount of the unsecured part of a debt.
- [14 February 2002]

#### **Section 346. Disputing a Decision regarding Reorganisation**

- (1) On the basis of a request of a shareholder or a member of a board of directors or of a council of a company involved in a reorganisation, a court may declare the decision regarding reorganisation as void if it was taken in violation of law, the articles of association of a capital company or a partnership agreement, and it is not possible to rectify these violations or they are not rectified within the time period specified by the court.
- (2) The time period for bringing an action in a court shall be three months from the day when the notice, referred to in Section 345, Paragraph two of this Law, is published.
- (3) A company, the decision regarding reorganisation taken by a meeting of shareholders of which has been declared void, has a duty to publish a notice regarding this in the newspaper

*Latvijas Vēstnesis* within 15 days from the day when the adjudication of the court has come into effect.

(4) The declaration of a decision regarding reorganisation as void shall not impact upon obligations which the company has assumed during the reorganisation process with respect to third persons.

(5) A decision regarding reorganisation shall not be declared void only because the capital share (stock) exchange coefficient or the amount of premium has been fixed too low.

(6) If the capital share (stock) exchange coefficient has been fixed too low, then a shareholder of the acquired, dividing or restructured company may request that the acquiring company pays a once only supplementary payment.

### **Section 347. Application to the Commercial Register Office**

(1) Each of the companies involved in the reorganisation process shall, not earlier than three months after the day when the notice is published, submit an application to the Commercial Register Office in order that the recording of the reorganisation is made in the Commercial Register. The following documents shall be appended to the application:

- 1) the agreement or its copy appropriately certified;
- 2) an extract of the minutes and the decision regarding reorganisation;
- 3) the list of the shareholders who voted against the reorganisation;
- 4) in cases specified by law – the reorganisation permit;
- 5) the prospectus (if the law requires the preparation of a prospectus);
- 6) the opinion of the auditor (if the law requires an auditor's examination);
- 7) the closing financial account of the acquired or by way of splitting up dividing company (if the application is being submitted by the acquired or the dividing company);
- 8) the articles of association of the acquiring capital company (if a new company is formed as a result of the reorganisation, or if the company is being restructured);
- 9) the list of the members of the board of directors of the acquiring capital company or the shareholders of a partnership who have the right to represent the company and notarised sample signatures (if a new company is formed as a result of the reorganisation, or if the company is being restructured); and
- 10) the list of council members of the acquiring capital company (if a new company is formed as a result of the reorganisation, or if the company is being restructured, and if the acquiring company is to have a council).

(2) In its application, the company shall certify that the claims of those creditors who have submitted their claims within the time period specified have been secured or satisfied, and that the decision on reorganisation has not been disputed in court or that the relevant action has not been satisfied.

[14 February 2002]

### **Section 348. Firm Name of the Acquiring Company**

(1) If there is only one acquiring company, it may after reorganisation utilise the firm name of the acquired company.

(2) The provisions for the continued utilisation of the firm name of a dividing company shall be provided for in the agreement.

(3) The acquiring company may utilise the firm name of the restructured company, except for indications of the restructured company's type.

(4) If a natural person has been a shareholder of the acquired, dividing or restructured company and is not a shareholder of the acquiring company, the acquiring company may

utilise the name of such person in the firm name only with the written consent of such person or his or her heirs.

[14 February 2002]

### **Section 349. Recording of the Reorganisation in the Commercial Register**

(1) The recording of the acquired or dividing company in the Commercial Register shall be made only after recordings have been made regarding all the acquiring companies.

(2) The file of the acquired company, after the recording of the reorganisation of this company has been made, shall be attached to the Commercial Register file of the acquiring company, and the acquired company shall be deleted from the Commercial Register.

(3) After the recording of the reorganisation of a dividing company has been made, extracts from the file of the dividing company shall be attached to the files of the acquiring companies, and in cases when the division was by the way of splitting up, the dividing company shall be deleted from the Commercial Register.

(4) In the case of restructuring the recording of the acquiring company may be made in the Commercial Register after the recording of the reorganisation of the restructured company has been made.

(5) Recordings made in the Commercial Register regarding reorganisation shall be announced in accordance with the procedures specified in Section 11 of this Law.

### **Section 350. Legal Meaning of the Commercial Register Recording of the Reorganisation**

(1) A reorganisation shall be considered as being in effect from the time when recordings have been made in the Commercial Register regarding all the companies involved in the reorganisation process including newly founded companies.

(2) From the time when a reorganisation comes into effect:

1) the property of the acquired company shall be considered to have been transferred to the ownership of the acquiring company; and

2) the property of the dividing company shall be considered to have been transferred to the ownership of the acquiring companies according to the agreement.

(3) From the time when a company is deleted from the Commercial Register, such company shall be considered to be liquidated.

(4) From the time when a reorganisation has come into effect, the shareholders of the acquired, dividing or restructured company shall become shareholders of the acquiring company, and their capital shares (stocks) shall be exchanged for the capital shares (stocks) of the acquiring company in proportion to the capital shares (stocks) owned by them. This provision shall not be applied if the dividing company which is divided by divestiture becomes the sole shareholder of the acquiring company.

(5) The rights of third persons to the capital shares (stocks) of the acquired, dividing or restructured company shall be preserved in relation to the capital shares (stocks) of the acquiring company.

(6) The capital shares (stocks) of the acquired or dividing company, which were owned by the acquiring company or the acquired or dividing company itself, or by a person who acted in his or her own name but for the benefit of the relevant acquired, dividing or acquiring company, shall not be exchanged and shall be extinguished, except for cases when the dividing company as a result of apportionment becomes the sole shareholder of the acquiring company.

(7) A reorganisation after it has come into effect may not be disputed.

**Section 351. Liability of Companies Involved in the Reorganisation Process**

(1) The acquiring company shall be liable for all the obligations of the acquired or restructured company.

(2) All the companies involved in the division of a company shall be solidarily liable for obligations of the dividing company which have been incurred up to the reorganisation coming into effect. In the mutual relations between such solidarily liable debtors, only that person shall be deemed as the obligated subject whose obligations are provided for in the agreement.

(3) If the obligations of a company involved in a division are not specified in the agreement, it shall be solidarily liable, together with other companies involved in the reorganisation process, for those obligations of the dividing company which shall become due within a period of five years from the time when the reorganisation comes into effect.

**Section 352. Liability of Members of the Board of Directors and of the Council**

(1) The members of the council and of the board of directors of companies and the shareholders of partnerships, who have representation rights involved in the reorganisation shall be solidarily liable for any losses caused to the company, its shareholders or creditors during the course of the reorganisation through their fault.

(2) The limitation period for any claims arising from Paragraph one shall be five years from the time when reorganisation comes into effect.

**Section 353. Compensation**

(1) Shareholders of the acquired, dividing or restructured company, who did not agree to the reorganisation, are entitled, within two months from the time when reorganisation comes into effect, to request the acquiring company to redeem their shares for money (compensation).

(2) Compensation may be requested also by shareholders of a company newly formed established as a result of division, who voted against the approval of the articles of association.

(3) The rights referred to in Paragraphs one and two of this Section shall not apply to those shareholders who are not recorded in the list referred to in Section 343, Paragraph nine and in the minutes referred to in Section 355, Paragraph five of this Law.

(4) The amount of compensation shall be equal to the amount which the shareholder would have acquired by dividing the property of the acquired or restructured company in the case of liquidation if it took place at the time when the decision on reorganisation was taken.

(5) The restrictions specified by law regarding the procedures by which a company may acquire its own shares shall not apply with respect to the compensation.

(6) From the time when the reorganisation comes into effect, the acquiring company shall pay the interest set by law on any compensation not paid out in the amount provided for and within the time period.

(7) If shareholders of the acquired or dividing company, who do not agree with the reorganisation, does not request compensation, they may alienate their shares within a period of two months, irrespective of any restrictions provided for in the decision, the articles of association or law.



**Division XVII**  
**Special Provisions for Particular Types of Reorganisation**

**Chapter 1**  
**Special Provisions for Merging**

**Section 354. Founding of a New Company through Consolidation of Companies**

- (1) Companies which unify by way of consolidation, shall be considered to be acquired companies, and a newly founded company – as the acquiring company.
- (2) In founding a new company, the provisions for the founding of the relevant type of company shall be applied, if in this Section it is not specified otherwise.
- (3) In addition to the information referred to in Section 338, Paragraph two of this Law, the reorganisation agreement shall indicate the firm name and legal address of the acquiring company. To the agreement shall be appended the founding company's draft articles of association or, if the acquiring company is a partnership – the partnership agreement which shall be approved by a decision regarding reorganisation of a meeting of all the shareholders of the acquired company.
- (4) The acquired companies shall submit to the Commercial Register Office a joint application regarding the recording of the new company in the Commercial Register.

**Chapter 2**  
**Special Provisions for Division**

**Section 355. Founding of a New Company through Division of a Company**

- (1) The newly founded company shall be considered to be the acquiring company.
- (2) In the founding of the acquiring company, the provisions for the founding of the relevant type of company shall be observed, if in this Chapter it is not specified otherwise.
- (3) If when a company is being divided, a new acquiring company is founded and no other existing company is involved in the reorganisation, the dividing company shall take a decision regarding division, which shall substitute for the agreement referred to in Section 338 of this Law. In addition to the information referred to in Section 338, Paragraph two of this Law, the decision regarding reorganisation shall indicate the firm name and legal address of the acquiring company and the dividing company's division of property between the acquiring companies. The division of property document may be appended to the decision in the form of a separate document.
- (4) In the case of divestiture, as shareholders of the newly founded company may become only those shareholders of the dividing company which have voted for the decision regarding reorganisation, as well as those who, up to the taking of the decision have expressed their intent in writing to become shareholders of the newly founded company.
- (5) The board of directors of the dividing company shall convene a meeting within the time period specified in the decision of the shareholders of the newly founded company, which shall approve the articles of association of the newly founded company, elect the administrative institutions and perform other activities which are necessary in founding a company. The articles of association of the newly founded company shall be approved by not less than three-quarters of the number of votes present and the provisions of this Law which regulate the relevant type of company meeting of shareholders shall be applicable to such a

meeting. The minutes of the meeting of shareholders shall indicate those shareholders which voted against the approval of the articles of association.

(6) Together with the application for reorganisation, the dividing company shall submit to the Commercial Register Office also an application for the recording of the acquiring company in the Commercial Register.

(7) The division shall come into effect from the time when the acquiring company is recorded in the Commercial Register and a record is made regarding the dividing company.

#### **Section 356. Division of Property not Provided for in the Reorganisation Agreement**

In the case of splitting up, the property, the division of which is not specified in the reorganisation agreement, shall be divided between the acquiring companies in proportion to the share of the property which they have acquired from the dividing company in accordance with the reorganisation agreement.

### **Chapter 3 Special Provisions for Restructuring**

#### **Section 357. Decision regarding Reorganisation**

(1) In the decision regarding reorganisation, the information referred to in Section 338, Paragraph two of this Law shall be indicated, and in addition the type of acquiring company shall be indicated.

(2) The draft articles of association or partnership agreement (if the acquiring company is a partnership) of the acquiring company shall be appended to the draft decision as an attachment.

(3) The decision shall substitute for the reorganisation agreement referred to in Section 338 of this Law, and the provisions of Sections 338–343 of this Law shall apply to it.

(4) Concurrently with the decision on restructuring, the draft articles of association of the acquiring company or partnership agreement, if the acquiring company is a partnership, shall be approved.

(5) If the company is restructured as a limited liability company or a stock company, concurrently with the taking of the decision, the board of directors and the council of the acquiring company shall be elected if in accordance with the law or the articles of association this is necessary.

#### **Section 358. Procedures for the Application of the Founding Provisions**

(1) In the process of restructuring, the provisions for the founding of the relevant type of company shall be applied if it is not specified otherwise this Chapter.

(2) Those shareholders of the restructured company shall be considered to be founders of the acquiring company who have voted for the restructuring of the company.

#### **Section 359. Features of Protection of the Interests of Creditors**

The provisions of Section 345, Paragraph three of this Law shall not be applicable if a capital company is restructured into a partnership.

## **Section 360. Valuation of Property**

(1) If a company is being transformed into a limited liability company or a stock company, it is necessary to evaluate the property contributions, in order to determine whether the property of the company to be restructured is sufficient for the formation of the equity capital of the acquiring company.

(2) The valuation of the property shall be done according to the procedures in this Law, and the documents certifying the valuation shall be submitted to the Commercial Register Office together with the application for restructuring.

## **Division XVIII Special Provisions for the Reorganisation of Particular Types of Companies**

### **Chapter 1 Partnerships as Companies Involved in Reorganisation**

## **Section 361. Contents of a Reorganisation Agreement**

If the acquiring company is a partnership, in addition to the information referred to in Section 338, Paragraph two of this Law, the status of each shareholder of the acquired or dividing company (general partner or limited partner) in the acquiring company, as well as the amount of their shares shall be indicated in the reorganisation agreement.

[14 February 2002]

## **Section 362. Reorganisation Prospectus**

A reorganisation prospectus need not be prepared if all the members of a partnership have the authority to manage the partnership or agree that a prospectus not be prepared.

## **Section 363. Examination by an Auditor**

In a partnership, an auditor shall not examine a reorganisation agreement if all the members agree to this.

## **Section 364. Decision Regarding Reorganisation and Application to the Commercial Register Office**

(1) A decision regarding reorganisation shall be taken if all the members vote for it.

(2) It may be provided for in the partnership agreement that a decision regarding reorganisation shall be taken if not less than two thirds of the members vote for it.

(3) In the recording of newly founded acquiring partnerships in the Commercial Register the provisions of Section 78 of this Law shall be applicable.

## **Section 365. Protection for Minority Shareholders**

(1) If the acquiring company is a partnership, a shareholder of a company involved in the reorganisation, which has voted against the reorganisation or did not take part in the voting shall become a limited partner of the acquiring company.

(2) If the acquiring company is a partnership, a member who withdraws from the partnership may request compensation.  
[14 February 2002]

### **Section 366. Liability of Shareholders**

(1) If the acquiring company is a limited partnership or a capital company, the general partner of an acquired or dividing company shall be liable for such obligations of the relevant acquired or dividing company as for which the time period for performance has come into effect or shall come into effect within a period of five years from the time when the reorganisation comes into effect.

(2) If the general partner of an acquired or dividing company becomes a general partner of the acquiring company, the limitation period specified in Paragraph one shall not be applied.  
[14 February 2002]

## **Chapter 2 Limited Liability Companies as Companies Involved in Reorganisation**

### **Section 367. Reorganisation Prospectus**

A limited liability company involved in a reorganisation need not prepare a prospectus if all of its shareholders agree that a prospectus shall not be prepared.

### **Section 368. Examination by an Auditor**

In a limited liability company, an auditor shall not examine a reorganisation agreement if all the shareholders agree to this.

### **Section 369. Decision Regarding Reorganisation**

(1) A decision regarding reorganisation shall be taken if not less than two thirds of the shareholders present at a meeting of shareholders vote for it (if the articles of association do not specify that a larger number of votes is necessary in order to take a decision regarding reorganisation).

(2) In determining a quorum, the shares that have been acquired by the company itself shall not be taken into account.

### **Section 370. Increase of the Equity Capital of the Acquiring Company as a Result of the Merger or Division Process**

(1) If the equity capital of the acquiring company is being increased as a result of merging or division, its shareholders have no priority right to the new shares provided for exchange.

(2) In addition to documents specified in Section 202 of this Law, which are to be submitted to the Commercial Register Office in relation to an increase of the equity capital, the reorganisation agreement and extracts from the minutes and the decisions regarding reorganisation taken by the meeting of shareholders of each of the companies involved in the reorganisation shall be appended to the application.

[14 February 2002]

**Section 371.****Transfer of Shares in the Case of a Reorganisation**

(1) The acquiring company shall transfer in exchange, to the shareholders of the acquired or dividing company, firstly, the shares owned by the company itself.

(2) The shares of the acquired or dividing company shall not be exchanged for the shares of the acquiring company if:

1) the shares of the acquired or dividing company are owned by the acquiring company or by a third person who acts in his or her own name but on behalf of the acquiring company; or

2) the shares of the acquired or dividing company are held by the acquired or dividing company itself or by a third person who acts in his or her own name but on behalf of the acquired or dividing company.

**Section 372.****Valuation of Property Contributions**

(1) If the acquiring company is a limited liability company which as a result of a reorganisation must increase its equity capital or which is to be founded as a new company, a valuation shall be conducted of the property of each of the acquired companies or the relevant part of the dividing company, in order to determine whether the property is sufficient to increase the equity capital of the acquiring company or for its founding.

(2) The valuation shall be conducted and a written report compiled by the person who has examined the reorganisation agreement in the relevant company.

(3) All the shareholders of the relevant company, as well as the shareholders of the acquiring company have the right to become acquainted with the report on the valuation of the property contribution in accordance with the procedures specified in Section 343, Paragraphs three and five of this Law.

(4) The report shall be appended to the application regarding reorganisation submitted to the Commercial Register Office.

**Chapter 3****Stock Companies as Companies Involved in Reorganisation****Section 373.****Decision regarding Reorganisation**

(1) A decision regarding reorganisation shall be taken if not less than two thirds of the stockholders present at a meeting of stockholders vote for it.

(2) If the company has several categories of stock, the decision shall be taken according to the procedures specified in Section 284, Paragraph three of this Law.

(3) If the acquiring company is not a stock company, stockholders who own preference stock, and debenture holders who own convertible debentures shall take part in the specifying of the representation norms and shall vote with the same rights as the other stockholders. The provisions of this Law regarding the taking of decisions for the different categories of stock shall apply to them.

**Section 374.****Increase of the Equity Capital of the Acquiring Company as a Result of Merging or Division**

(1) If the equity capital of the acquiring company is being increased as a result of merging or division, its stockholders have no priority right to the stock issued for exchange.

(2) In addition to documents specified in Section 261 of this Law, which are to be submitted to the Commercial Register Office in relation to an increase of the equity capital, the reorganisation agreement and the decisions regarding reorganisation taken by the meeting of stockholders of each of the companies involved in the reorganisation shall be appended to the application.

[14 February 2002]

### **Section 375. Transfer of Stock in the Case of Reorganisation**

The acquiring company shall transfer in exchange, to the stockholders of the acquired or dividing company, firstly, the stock belonging to the company itself.

[14 February 2002]

### **Section 376. Amount of Premium**

(1) The premiums provided for in the agreement, which are to be paid by the acquiring stock company to the stockholders of the acquired, dividing or restructured company, may not exceed in total 10 per cent of the amount of the par value of stock offered for exchange.

(2) If the capital stocks exchange coefficient has been fixed too low, then a stockholder of the acquired, dividing or restructured company may request that the acquiring company pay a once only supplementary payment which may exceed the amount specified in Paragraph one of this Section.

### **Section 377. Valuation of Property Contributions**

(1) If the acquiring company is a stock company which as a result of a reorganisation must increase its equity capital or which is to be founded as a new company, a valuation shall be conducted of the property of each of the acquired companies or the relevant part of the dividing company, in order to determine whether the property is sufficient to increase the equity capital of the acquiring company or for its founding.

(2) The valuation shall be conducted and a written report compiled by the person who has examined the reorganisation agreement in the relevant company.

(3) All the shareholders of the relevant company, as well as the shareholders of the acquiring company have the right to become acquainted with the report on the valuation of the property contribution in accordance with the procedures specified in Section 343, Paragraphs three and five of this Law.

(4) The report shall be appended to the application regarding reorganisation submitted to the Commercial Register Office.

### **Section 378. Anonymous Stockholders and Debenture Holders**

(1) If the acquiring company is a limited liability company or a stock company which has only bearer stock and if there is no information regarding stockholders or debenture holders who own convertible debentures of the acquired, dividing or restructured company, the numbers and the par value of stock or debentures shall be indicated in the place of the names of the shareholders or stockholders in the register of shareholders of the acquiring company or register of stockholders.

(2) If the acquiring company is a partnership, and if there is no information regarding stockholders or debenture holders who own convertible debentures of the acquired, dividing or restructured company, the numbers and the par value of stock or debentures shall be

indicated in the place of the names of the shareholders or stockholders in the reorganisation agreement and the application to the Commercial Register Office.

(3) If the names of these stockholders or debenture holders become known later, they shall be recorded in the register of shareholders (stockholders) of the acquiring company, but if the acquiring company is a partnership – in the Commercial Register.

**Section 379. Protection of Interests of Holders of Preference Stock and Debenture Holders**

(1) The rights of the holders of preference stock and debenture holders of the acquired or dividing company shall be preserved in the acquiring stock company.

(2) If the acquiring company is not a stock company, the holders of preference stock and debenture holders of the acquired or dividing company shall acquire the shares of the acquiring company on the basis of the same provisions as other stockholders of the acquired or dividing company.

(3) The holders of preference stock and debenture holders, who disagree with the decision regarding reorganisation, may request compensation in accordance with the provisions of Section 353 of this Law.

**Transitional Provisions**

1. This Law shall come into force on 1 January 2002.

2. The procedures for the coming into force of this Law shall be determined by a special law.

3. The Cabinet shall, up to 1 March 2001, ensure the necessary funding for the implementation of the conditions for the coming into force of The Commercial Law.  
[21 December 2000; 29 March 2001; 26 June 2001]

This Law has been adopted by the *Saeima* on 13 April 2000.

President

Vaira Vīķe-Freiberga

Rīga, 4 May 2000.