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16 October 2003;
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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*¹ has adopted and
the President has proclaimed the following Law:

On Protection of Employees in case of Insolvency of Employer

Chapter I General Provisions

Section 1.

The purpose of this Law is to regulate:

- 1) general provisions for satisfaction of claims of employees in case of insolvency of the employer and
- 2) procedures of formation and utilisation of the resources of the employee claims guarantee fund.

Section 2.

- (1) Within the meaning of this Law, insolvency of an employer shall be in effect from the day when a court judgment regarding insolvency of the employer enters into legal effect.
- (2) Within the meaning of this Law, cross-border insolvency proceedings are insolvency proceedings, which are commenced in accordance with Council regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings (hereinafter - Council regulation No. 1346/2000).
[26 January 2006]

¹ The Parliament of the Republic of Latvia

Chapter II

Employee Claims to be Satisfied

Section 3.

(1) From the resources of the employee claim guarantee fund shall be satisfied the claims of persons:

1) who have been or are in an employment legal relationship with an employer, who has been declared insolvent, if the referred to claims have been included in creditor's meeting approved recognised unsecured creditor claims list; and

2) who perform or normally perform work in Latvia and who have been or are in an employment legal relationship with an employer who operates in the territory of at least two Member States of the European Union and against whom insolvency proceedings have been commenced in another state in accordance with Council regulation No. 1346/2000 if the referred to claims have been recognised as justified in accordance with the regulatory enactments of the European Union, which are applicable in the concrete cross-border insolvency proceedings.

(2) An employee has the right to satisfaction of his or her claim from the resources of the employee claims guarantee fund regardless of whether the employer has made all the payments prescribed by law.

(3) In case of death of an employee, his or her spouse and dependants have the right to satisfaction of the claim of the employee.

[18 December 2003; 26 January 2006]

Section 4.

(1) The claims of employees resulting from an employment legal relationship, shall be satisfied from the resources of the employee claims guarantee fund regarding the following payments:

1) work remuneration;

2) reimbursement for annual paid leave;

3) reimbursement for other types of paid leave;

4) severance pay in connection with the termination of an employment legal relationship;

5) reimbursement for injury in connection with an accident at work or an occupational disease;

6) *[18 December 2003]*

(2) Claims in respect of such State social insurance mandatory contributions and personal income tax payments, which are associated with the payments referred to in this Section, shall be satisfied from the resources of the employee claims guarantee fund.

[18 December 2003]

Section 5.

(1) Employee claims shall be satisfied from the resources of the employee claim guarantee fund in the following amounts:

1) work remuneration for the last three months of employment legal relationship in

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twelve months before the insolvency of the employer came into effect;

2) reimbursement for annual paid leave the right to which has been acquired in the twelve months before the insolvency of the employer came into effect;

3) reimbursement for other types of paid leave in last three months of employment legal relationship in the last twelve months before the insolvency of employer came into effect;

4) severance pay in the minimal amount prescribed by law;

5) reimbursement for damages for the whole unpaid time period;

6) reimbursement for damages for the four subsequent years.

(2) If the employer has not paid work remuneration to the employee for more than three months of employment legal relationship, the employee has the right to choose the three months of employment legal relationship, for which the work remuneration shall be calculated, in the last twelve months before the insolvency of the employer came into effect.

(3) The claim of an employee for reimbursement for damages in relation to an accident at work or occupational disease shall be satisfied if the accident at work occurred or the occupational disease was acquired up to 1 January 1997, as well as in the case if the former employee, who is not considered to be an insured person in accordance with the Law On Compulsory Social Insurance in Respect of Accidents at Work and Occupational Diseases, the occupational disease the cause of which was the work performed by such employee in harmful work conditions up to 1 January 1997 was determined after 1 January 1997.

[18 December 2003; 19 December 2006]

Chapter III

Resources of the Employee Claims Guarantee Fund and Administration thereof

Section 6.

(1) Resources of the employee claims guarantee fund shall consist of:

1) a share of the State entrepreneurial risk fee;

2) gifts and donations; and

3) amounts recovered by administrators;

(2) Every employer who may be declared insolvent in accordance with law shall pay the State entrepreneurial risk fee every year.

(3) An employer who has been declared insolvent by a court judgment shall not pay the State entrepreneurial risk fee. If solvency has been renewed, the full amount of the fee shall be paid also for the total time of insolvency.

(4) The Cabinet shall determine the amount of the State entrepreneurial risk fee and the share of such fee to be transferred to the resources of the employee claims guarantee fund each year. The income and expenditures of the employee claims guarantee fund shall be included in the annual State budget as a separate basic budget sub-programme.

[16 October 2003]

Section 7.

(1) Resources of the employee claims guarantee fund shall be used only for satisfying

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employee claims in case of insolvency of an employer.

(2) The resources of the employee claims guarantee fund shall be kept in the State Treasury.

(3) If the resources of the employee claims guarantee fund are not sufficient to satisfy employee claims in accordance with this Law, the employee claims shall be satisfied from the State budget in accordance with procedures prescribed by law.

Section 8.

(1) The holder and manager of the resources of the employee claims guarantee fund shall be the State agency "Maksātnespējas administrācija" [Insolvency Administration] (hereinafter – Insolvency Administration) established by the Cabinet, which agency shall organise the keeping of records of the financial resources and payments thereof to satisfy employee claims.

(2) The Insolvency Administration shall perform the following tasks in accordance with this Law:

1) accept and examine applications of administrators of insolvent employers regarding the satisfaction of employee claims, and approve the amounts to be paid from the resources of the employee claims guarantee fund;

2) satisfy the claims of employees;

3) check whether the allocated resources are being utilised in accordance with the procedures prescribed by law;

4) ensure the reimbursement of unutilised resources of the employee claims guarantee fund; and

5) exercise creditor rights against the insolvent employer in the amount of resources paid for the satisfaction of employee claims in accordance with the procedures prescribed by law.

(3) The surplus of funds of the employee claims guarantee fund shall be used for the satisfaction of employee claims in the following financial years.

[16 October 2003; 18 December 2003]

Section 9.

The State Revenue Service and other state and local government institutions shall provide information to the Insolvency Administration which is required for performance of the tasks prescribed by this Law.

Chapter IV

Procedures of Satisfying Employee Claims

Section 10.

(1) An administrator of an insolvent employer shall accept and process the claims of employees and submit the claims to the Insolvency Administration. The administrator is entitled to submit applications to the Insolvency Administration regarding employee claims only in such case if the recognised unsecured creditor claim list has been approved by the meeting of creditors, moreover only to the moment when it has taken a decision regarding the termination of the insolvency

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proceedings.

(2) The Cabinet shall determine the procedures for submission, examination and satisfaction of employee claims.

[18 December 2003]

Section 11.

(1) After the approval of the amount to be paid for the satisfaction of the employee claims, the Insolvency Administration shall transfer the mandatory State social insurance contributions, personal income tax and reimbursement for damages for the four subsequent years to the budgets specified in regulatory enactments, but shall transfer the amounts to be paid out to employees to the administrator into the account of the insolvent employer for further payment to the employees.

(2) After the approved amounts of employee claims have been paid, the Insolvency Administration shall acquire;

1) priority creditor first creditor group creditor rights in accordance with the Law On the Insolvency of Undertakings and Companies; and

2) satisfied creditor rights in accordance with the Credit Institutions Law or the Law On Insurance Companies and Supervision Thereof.

(3) An administrator of an insolvent employer has a duty from the resources of the insolvent employer to refund monetary resources to the Insolvency Administration which resources the Administration has paid to the employees to satisfy their claims. The administrator in satisfying the claims of one group of creditors shall firstly refund monetary resources to the Insolvency Administration which resources the Administration has paid for satisfaction of employees' claims.

(4) The Insolvency Administration shall include the resources, received from the administrator of the insolvent employer, in the resources of the employee claims guarantee fund.

(5) If settlement or restoration has been approved as a resolution of insolvency, the refunding of amount paid or to be paid by the Insolvency Administration for the satisfying of employee claims shall be provided for in the settlement or restoration plan.

[18 December 2003; 19 December 2006]

Chapter V

Procedures of Satisfying Employee Claims in Cross-border Insolvency Proceedings

Section 12.

(1) In the case of cross-border insolvency proceedings if in a Member State of the European Union the insolvency proceedings referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000 have been commenced and in Latvia the insolvency proceedings referred to in Article 3, Paragraph 2 of this regulation have been commenced, the employee claims shall be satisfied according to the procedures specified in Chapter IV of this Law.

(2) In the case of cross-border insolvency proceedings if in a Member State of the European Union the insolvency proceedings referred to in Article 3, Paragraph 1 of Council regulation

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No. 1346/2000 have been commenced, but in Latvia the insolvency proceedings referred to in Article 3, Paragraph 2 of this regulation have not been commenced, the employee claims shall be satisfied according to the procedures specified in this Chapter.

(3) Employee claims shall be accepted and compiled by the insolvency proceedings liquidator referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000, who shall submit them to the Insolvency Administration. An employee in submitting a creditor's claim to the insolvency proceedings liquidator referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000 may at the same time submit such claim to the Insolvency Administration, appending a copy of the employment contract and a certification regarding the submission of the creditor claim to the insolvency proceedings liquidator referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000.

(4) The insolvency proceedings liquidator referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000 is entitled to submit to the Insolvency Administration applications regarding employee claims only in the case if the claims have been recognised as justified in accordance with Section 3, Paragraph one, Clause 2 of this Law, moreover only up to the moment when in accordance with the regulatory enactments of the relevant Member State of the European Union, which are applicable in the concrete cross-border insolvency proceedings, such cross-border insolvency proceedings have not been terminated.

(5) The Cabinet shall determine the procedures for the submission, consideration and satisfying of employee claims in the case of cross-border insolvency proceedings.

[26 January 2006]

Section 13.

(1) After the approval of the amount to be paid for the satisfaction of the employee claims, the Insolvency Administration shall transfer the mandatory State social insurance contributions, personal income tax and reimbursement for damages for the four subsequent years to the budgets specified in regulatory enactments, but shall pay the amounts to be paid out to employees through the intermediation of postal payments or by transfer into a bank account.

(2) After the approved amounts for the satisfaction of the employee claims have been paid out, the Insolvency Administration in accordance with the regulatory enactments of the relevant member State of the European Union, which are applicable in the concrete cross-border insolvency proceedings, shall acquire creditor rights in the amount paid out from the employee claims guarantee fund.

(3) After the utilisation of the creditor rights of the Insolvency Administration, the monetary resources gained therefrom shall be transferred into the employee claims guarantee fund.

(4) If in accordance with the regulatory enactments of the relevant Member State of the European Union, which are applicable in the concrete cross-border insolvency proceedings, in this concrete cross-border insolvency proceedings an insolvency resolution is applied the purpose of which is not the liquidation of the insolvent employer, the liquidator has a duty to inform the Insolvency Administration regarding the procedures and time periods for the paid out or to be paid out amount for the satisfaction of the employee claims.

[26 January 2006; 19 December 2006]

Transitional Provisions

1. Up to 31 December 2004, the aggregate amount of the satisfiable employee claims referred to in Section 5, Paragraph one, Clauses 1, 2, 3 and 4 of this Law, and the employee's share of the mandatory State social insurance contributions and personal income tax payments may not exceed 1000 lats for one employee.

[18 December 2003]

2. The provisions of this Law are not applicable to those employees, regarding whose employer a decision regarding resolution of the insolvency situation has been taken up to the day of coming into force of this Law.

[18 December 2003]

3. Section 5, Paragraph two of this Law is in force until 31 December 2004.

4. The Cabinet not later than by 1 June 2006 shall issue the regulations referred to in Section 12, Paragraph five of this Law. Until the day of the coming into force of such regulations, for the procedures for the submission, consideration and satisfying of employee claims in the case of cross-border insolvency proceedings, Cabinet regulation No. 830 Procedures for the Submission, Consideration and Satisfaction of Claims of Employees against Insolvent Employers, shall be applied insofar as they are not in contradiction with this Law.

[26 January 2006]

Informative References to the Directives of the European Union

This Law includes legal norms, which arise from:

1) Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer; and

2) Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.

[18 December 2003; 26 January 2006]

This law shall come into force on 1 January 2003.

This Law has been adopted by the *Saeima* on 20 December 2001.

Acting for the President,

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Chairperson of the *Saeima*

J. Straume

Rīga, 28 December 2001