

RESOLUTION
OF THE PLENUM OF THE SUPREME COURT
OF THE RUSSIAN FEDERATION

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On certain issues related to the entry into force
of Federal Law No. 107-FL of May 29, 2024,
“On Amendments to the Federal Law
”On Insolvency (Bankruptcy)” and Article 223 of the Arbitration
Procedural Code of the Russian Federation”

For the purpose of uniform application by courts of the provisions of Federal Law No. 107-FL of May 29, 2024, “On Amendments to the Federal Law ‘On Insolvency (Bankruptcy)’ and Article 223 of the Arbitration Procedure Code of the Russian Federation” The Plenum of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, Articles 2 and 5 of Federal Constitutional Law No. 3-FKL of February 5, 2014, “On the Supreme Court of the Russian Federation,” resolves to provide the following clarifications.

Consideration of an application
for recognition of a debtor as bankrupt

1. When considering insolvency (bankruptcy) cases, courts should take into account that Federal Law No. 107-FL of May 29, 2024 “On Amendments to the Federal Law ‘On Insolvency (Bankruptcy)’ and Article 223 of the Arbitration Procedural Code of the Russian Federation” (hereinafter referred to as Law No. 107-FL) has introduced amendments to Federal Law No. 127-FL of October 26, 2002 “On Insolvency (Bankruptcy)” (hereinafter referred to as the Bankruptcy Law).

These amendments include: an increase in the minimum threshold amount of debt required for creditors to initiate bankruptcy proceedings against legal entities; establishment of procedural peculiarities for conducting proceedings in several categories of separate disputes; modification of the rules for appealing court decisions made both within and outside of bankruptcy proceedings; clarification

of the procedure for arbitration managers to request information about the debtor and persons interested in relation to the debtor; establishment of specific features for conducting bankruptcy proceedings of individuals, etc.

2. The threshold amount required to initiate bankruptcy proceedings against a legal entity, based on item 2 of Article 6 and item 2 of Article 33 of the Bankruptcy Law, has been increased from 300,000 rubles to 2,000,000 rubles as of May 29, 2024.

These threshold amount provisions apply to applications filed by: creditors participating in the bankruptcy proceedings, authorized bodies, employees and former employees of the debtor (item 1 of Article 7 of the Bankruptcy Law)

It is important to note that the threshold amount restrictions do not apply to applications filed by the debtor regarding its own bankruptcy.

3. When applying item 2 of Article 6 and item 2 of Article 33 of the Bankruptcy Law, arbitration courts must take into account that the presence of grounds for introducing a bankruptcy procedure (hereinafter referred to as bankruptcy procedure) is established as of the day of considering the validity of the application.

In this regard:

If, prior to the entry into force of Law No. 107-FL, a creditor's application for the debtor's bankruptcy was left without motion, and despite the subsequent elimination of the circumstances that served as the basis for leaving it without motion, the arbitration court shall refuse to accept the creditor's application for the debtor's bankruptcy if the amount of their claims has become less than the updated threshold amount (second paragraph of Article 43 of the Bankruptcy Law)

If, prior to the entry into force of Law No. 107-FL, a creditor's application for the debtor's bankruptcy was accepted for proceedings and a court hearing was scheduled to consider the validity of such application, the arbitration court shall refuse to introduce observation if, by the date of the court hearing, the amount of the creditor's claims turned out to be less than the updated threshold amount (paragraphs six and nine of item 3 of Article 48 of the Bankruptcy Law)

If, by the date of entry into force of Law No. 107-FL, an observation procedure has been introduced in respect of the debtor and the amount of claims included and declared for inclusion in the register of creditors' claims is less than 2,000,000 rubles, then the court, based on the fifth paragraph of item 1 of Article 57 of the Bankruptcy Law, shall terminate the proceedings in the absence of objections from the debtor.

4. Courts should take into account that if the amount of debt exceeds the threshold amount, the debtor's insolvency is presumed (item thirty-seven of Article 2, item 2 of Article 6, and item 2 of Article

33 of the Bankruptcy Law). However, when considering the validity of a creditor's application, the court has the right to refuse to introduce bankruptcy proceedings if the debtor proves that, despite temporary financial difficulties (for example, caused by cash flow gaps), taking into account the planned incoming funds, it will be able to fulfill its obligations with the due date for performance (item 1 of Article 6 of the Civil Code of the Russian Federation (hereinafter referred to as the CC RF), paragraph thirteen of item 3 of Article 48, paragraph seven of item 3 of Article 213.6 of the Bankruptcy Law).

5. For the purposes of introducing a bankruptcy procedure, the claims of not only the applicant in the case but also other creditors are taken into account. Therefore, the court cannot refuse to introduce a bankruptcy procedure if the applicant's claim is repaid to an amount below the threshold value (item 2 of Article 6, item 2 of Article 33 of the Bankruptcy Law), but there are applications from other creditors to join the case (item 8 of Article 42 of the Bankruptcy Law), the total amount of whose claims exceeds the threshold value. In such a case, the court consolidates the first and subsequent applications for their joint consideration on the merits (part 2 of Article 130 of the Arbitration Procedural Code of the Russian Federation (hereinafter referred to as the APC RF)).

Proceedings on separate documentary disputes

6. The provisions of item 2 of Article 60, item 2 of Article 71, and item 3 of Article 100 of the Bankruptcy Law establish the procedural features for considering separate disputes, the proceedings for which are conducted in documentary form through the exchange of procedural documents without holding a court hearing (hereinafter referred to as documentary separate disputes). Pursuant to these norms, the court, managing the process, determines the most optimal procedure for considering a specific separate dispute.

The rules on the procedure for considering documentary separate disputes (item 2 of Article 60 of the Bankruptcy Law) apply to disputes regarding the inclusion of claims in the register of creditors' claims (item 2 of Article 71, item 3 of Article 100 of the Bankruptcy Law).

7. As a general rule, the initiation of proceedings in a documentary separate dispute is carried out on the basis of a ruling of the arbitration court on the acceptance of the application for proceedings (part 3 of Article 127 of the APC RF). In this ruling, the court indicates: the applicant, the subject and grounds of the claims, persons participating in the dispute, the procedure for reviewing the application and documents attached to it (depending on the method of filing the application), the period for submitting objections (at least five days) and responses to objections, the period within which the separate dispute,

based on its nature and complexity, will be considered with the issuance of a ruling by signing the operative part.

At the same time, the extension of the external management or bankruptcy proceedings (item 2 of Article 108, item 3 of Article 124 of the Bankruptcy Law) is carried out by the arbitration court before the expiration of the terms provided for by the judicial act on the opening of bankruptcy proceedings or the previous ruling on its extension, without prior issuance of a ruling on the acceptance of the application for proceedings.

Similarly, if there are grounds for requesting information and documents in court (paragraph seven of item 1 of Article 20.3, paragraphs five and six of item 7 of Article 213.9 of the Bankruptcy Law), the corresponding petition of the arbitration manager is considered by the court without issuing a ruling on the acceptance of the petition for proceedings.

8. Persons participating in a bankruptcy case are considered notified of the issuance of a ruling on the acceptance of an application for proceedings on the day following the day of posting the text of the judicial act in the prescribed manner on the information and telecommunications network «Internet», without the additional sending of a copy of the ruling on acceptance on paper (paragraph two of part 1 of Article 122, part 1 of Article 186 of the APC RF).

9. After receiving objections, the court, without proceeding to consider the separate dispute in the general manner, in order to comply with the principle of adversarial proceedings (Article 9 of the APC RF), is entitled to issue a ruling by signing the operative part to establish an additional period for submitting responses to objections.

Upon a reasoned petition of a person participating in the bankruptcy case, the period for filing objections and/or responses to objections and the period within which the separate dispute will be considered may be extended by the arbitration court, about which a ruling is issued by signing the operative part.

10. As a general rule, the arbitration court considers only those objections that were received within the period established by the ruling on the acceptance of the application for proceedings. Objections received after the specified period but before the day of issuing the ruling on the merits of the separate dispute are considered by the arbitration court and attached to the case materials if there are valid reasons for missing the deadline.

Objections received after the issuance of the ruling by signing the operative part are not subject to consideration and attachment to the case materials. Such objections also cannot be considered as applications for the preparation of a reasoned ruling, for the exclusion of the claim from the register of creditors' claims, etc.

11. The ruling of the arbitration court on the results of a separate dispute, issued by signing the operative part, is subject to placement in the prescribed manner in the information and telecommunications network «Internet».

Persons participating in the bankruptcy case, without additional sending of a copy of the ruling on paper, are considered notified of the court's issuance of this ruling on the day following the day of posting the text of the judicial act in the prescribed manner (paragraph two of part 1 of Article 122, part 1 of Article 186 of the APC RF).

12. According to paragraph four of item 2 of Article 60, paragraph five of item 2 of Article 71, and paragraph five of item 3 of Article 100 of the Bankruptcy Law, an application for the preparation of a reasoned ruling may be submitted within five days from the date of placement of the operative part of the ruling in the prescribed manner. According to the meaning of this provision, an application for the preparation of a reasoned ruling submitted before the issuance of the operative part of the ruling, as well as submitted after the expiration of five days after the preparation of the operative part, shall not be subject to consideration.

The missed deadline for filing such an application does not prevent the filing of an appeal, on the basis of which the court prepares a reasoned ruling (paragraph three of item 2 of Article 60, paragraph four of item 2 of Article 71, paragraph four of item 3 of Article 100 of the Bankruptcy Law).

13. According to the meaning of paragraph 2 of Article 60, item five of item 3 of Article 71, and paragraph five of item 3.1 of Article 100 of the Bankruptcy Law, the mere submission of objections to the claims filed does not constitute grounds for the arbitration court to proceed to the consideration of the separate dispute in the general procedure. The preservation of the documentary procedure for considering a separate dispute in the presence of received reasoned objections cannot be grounds for canceling the court's ruling that lawfully resolved the dispute on the merits.

When resolving issues regarding the transition to the general procedure and the scheduling of a court hearing, the arbitration court assesses how the submitted objections may affect the decision on the separate dispute, as well as how significant the issues of legal qualification and issues of fact involved in the consideration of the separate dispute are and whether they require a court hearing. In particular, the court has the right to proceed to the general procedure for considering a separate dispute if it is necessary to appoint an examination, hear witness testimony, clarify additional circumstances, or examine additional evidence, etc.

If there are appropriate grounds, the arbitration court issues a ruling on scheduling the case for trial proceedings in the manner prescribed by item 1 of Article 60, item 3 of Article 71, or item 3.1 of Article 100 of the Bankruptcy Law.

14. Pursuant to part 1 of Article 223 of the APC RF, documentary separate disputes are subject to both general norms of procedural legislation and provisions of Chapter 29 of the APC RF to the extent that they do not contradict the nature of documentary proceedings. For example, based on paragraph four of part 5 of Article 228 of the APC RF, after proceeding to consider a documentary separate dispute in a court hearing, the arbitration court is entitled to issue a ruling by signing the operative part.

15. If a documentary procedure is provided for a particular separate dispute, then procedural issues are subject to consideration in the same documentary procedure. For example, a dispute regarding succession and replacement of a creditor in the register of creditors' claims is resolved taking into account the provisions of item 2 of Article 60 of the Bankruptcy Law.

Consideration of a creditor's claim in a court hearing does not preclude the subsequent resolution of the issue of procedural succession in accordance with item 2 of Article 60 of the Bankruptcy Law. In a similar manner, issues regarding procedural succession for restitution claims and replacement of the claimant in cases of subsidiary liability (Article 61.17 of the Bankruptcy Law) may be considered.

16. According to paragraph two of item 2 of Article 108 and item 3 of Article 124 of the Bankruptcy Law, issues regarding the extension of the terms of external management and bankruptcy proceedings are considered by the arbitration court according to the rules of a documentary separate dispute. The corresponding ruling, adopted by signing the operative part, is issued before the expiration of the term provided for by the judicial act on the opening of the bankruptcy procedure or the previous ruling on its extension.

As a general rule, the term of bankruptcy proceedings is extended at the request of a person participating in the case (item 2 of Article 124 of the Bankruptcy Law), which is why the corresponding petition must be filed in advance before the expiration of the bankruptcy procedure term.

In the absence of a petition from the bankruptcy trustee, the arbitration court has the right to extend the term of bankruptcy proceedings on its own initiative if the activities carried out during the bankruptcy proceedings have not been completed, or to schedule a court hearing to consider the issue of completion of the procedure (item 3 of Article 143 and paragraph two of item 1 of Article 149 of the Bankruptcy Law).

17. The provisions of paragraph five of item 1 of Article 144 of the Bankruptcy Law apply not only to bankruptcy trustees but also to arbitration managers exercising their powers in other bankruptcy procedures, including financial managers.

Due to the fact that the issues of releasing the previous and approving a new arbitration manager, as a general rule, are resolved simultaneously, the issue of approving an arbitration manager under the rules of Article 45 of the Bankruptcy Law, if a single candidate who meets the requirements of the Bankruptcy

Law is presented and there are no objections from persons participating in the bankruptcy case, is subject to consideration in the manner of a documentary separate dispute (item 2 of Article 60 of the Bankruptcy Law).

18. The provisions of paragraph two of item 2 of Article 126 of the Bankruptcy Law regarding the documentary procedure for considering a dispute about the recovery of documentation and assets of the debtor are applicable not only in the procedure of bankruptcy proceedings but also in other bankruptcy procedures (item 3.2 of Article 64, paragraph four of item 1 of Article 94, Articles 213.11, 213.24 of the Bankruptcy Law), including cases when, together with the recovery of documentation and assets, the arbitration manager requests, in accordance with Article 308.3 of the Civil Code of the Russian Federation, the awarding of a monetary amount in case of non-execution of said judicial act.

Features of the consideration of disputes concerning the inclusion of claims in the register of creditors' claims

19. Pursuant to item 1 of Article 71 and item 1 of Article 100 of the Bankruptcy Law, creditors' claims for inclusion in the register are sent to the arbitration court in electronic form in the manner established by procedural legislation. This rule applies, among other things, in cases of bankruptcy of individuals (item 2 of Article 213.8, item 4 of Article 213.24 of the Bankruptcy Law).

A creditor who submits such a claim on paper must justify the impossibility of complying with the electronic form of submission. In the absence of such justification, the creditor's claim is subject to being left without motion on the basis of a ruling in which the arbitration court instructs the applicant to eliminate procedural violations and send the application in electronic form or justify the impossibility of complying with the electronic form of submission. If the violations are not eliminated by the deadline set by the court, the creditor's claim is subject to return on the basis of item 4 of Article 60 of the Bankruptcy Law, item 5 of part 1 of Article 129 of the APC RF.

Circumstances indicating the impossibility of complying with the electronic form of submission may include: the absence in the locality where the creditor resides or is located of access to the information and telecommunications network «Internet»; the absence of technical or financial capability of the creditor to use said network; the creditor's location in places of deprivation of liberty, etc. Until proven otherwise, it is presumed that the creditor has the ability to comply with the electronic form of submission.

20. When applications for inclusion of claims in the register, previously left without movement, are accepted for proceedings, the applications are considered to have been received by the arbitration court on the day the claim was submitted on paper, however, the deadlines for considering separate disputes and submitting objections to the claims are calculated from the date of the ruling on the acceptance of the claim for consideration.

A creditor's paper application, accepted for proceedings, is also placed in the prescribed manner in the information and telecommunications network «Internet» in restricted access mode.

21. According to item 1 of Article 71 of the Bankruptcy Law, creditors have the right to file their claims electronically within thirty calendar days from the date of publication of the notice of the introduction of the observation procedure for the purpose of participating in the first meeting of creditors. The arbitration court considers these claims after the expiration of thirty days from the end of the period (thirty days) for filing claims (item 2 of Article 71 of the Bankruptcy Law).

Thus, creditors' claims are considered not earlier than after the expiration of two thirty-day periods (in total - sixty calendar days). Until the expiration of this sixty-day period, creditors' objections may be filed (paragraph two of item 3 of Article 71 of the Bankruptcy Law).

22. When considering creditors' claims in the manner provided for by Article 100 of the Bankruptcy Law, it must be taken into account that the period for considering such claims, unlike the observation procedure, is calculated from the date of submission of the creditor's claim, and not from the date of publication of information about the opening of the procedure (paragraph one of item 3 of Article 100 of the Bankruptcy Law).

23. Creditors' claims are considered by the arbitration court after the expiration of sixty days (Article 71 of the Bankruptcy Law) or thirty days (Article 100 of the Bankruptcy Law), respectively, within a reasonable period (part 1 of Article 61 of the APC RF), but not more than one month. If, while considering the claim and the objections received, the court comes to the conclusion that it is necessary to proceed to the general procedure for consideration, the court issues a ruling on scheduling a court hearing to review the creditor's claim.

24. When considering cases of bankruptcy of individuals, it must be taken into account that, in accordance with item 2 of Article 213.8 of the Bankruptcy Law, creditors have the right to file their claims within two months from the date of publication of the notice on the introduction of debt restructuring for the citizen. Accordingly, the arbitration court considers the claim after the expiration of two months from the date of publication of said notice and thirty calendar days from the end of the period for filing claims.

Filing a claim by a creditor with the expiration of the period established by paragraph 2 of Article 213.8 of the Bankruptcy Law is not grounds for postponing the court's consideration of this claim until the next bankruptcy procedure, which is why the arbitration court considers said claim after the expiration of the period for filing objections, which is thirty calendar days from the date of the ruling on its acceptance for proceedings.

25. According to item 3 of Article 71 and item 3.1 of Article 100 of the Bankruptcy Law, objections regarding the creditor's claims may be filed by persons specified in item 10 of Article 16 of the Bankruptcy Law. Objections, like creditors' claims, must be filed in electronic form, taking into account the rules provided for filing a creditor's application (item 1 of Article 71, item 1 of Article 100 of the Bankruptcy Law).

The provisions of paragraph two of item 10 of Article 16 of the Bankruptcy Law determine the status of creditors who have filed claims against the debtor as persons participating in the bankruptcy case (Article 34 of the Bankruptcy Law), endowed with appropriate procedural rights and obligations. In case of refusal by the court of first instance to include the requirements of such creditors in the register, this status, including the right to object to the requirements of other creditors, is retained by them until the completion of proceedings on complaints against the determination of refusal in the arbitration court of appeal, arbitration court of the district, and the Judicial Collegium of the Supreme Court of the Russian Federation.

26. The provisions of paragraph three of item 10 of Article 16 of the Bankruptcy Law regarding the right to object to the claims of other creditors apply to creditors whose claims, due to procedural or procedural peculiarities of occurrence (confirmation), cannot be submitted for inclusion in the register. When resolving the issue of whether a particular person has the status of a creditor, the court assesses the likelihood of their claim arising in the future.

Creditors provided for by this norm may include: the authorized body that initiated a tax or other inspection of the debtor; a creditor whose claim against the debtor is being considered in the order of claim proceedings in parallel with the liquidation procedure of the debtor's bankruptcy; a creditor with a claim against the debtor subject to a condition, including a creditor under subsidiary surety (Article 157 of the Civil Code of the Russian Federation); a creditor who did not file an application for recognition of the debtor as bankrupt when considering the validity of the application for recognition of the debtor as bankrupt (Article 48 of the Bankruptcy Law); a legal entity under bankruptcy proceedings controlled by the debtor, whose arbitration manager or creditors intend to file a claim for bringing the debtor to subsidiary liability, etc.

27. When applying the provisions of Articles 71 and 100 of the Bankruptcy Law, the arbitration court should proceed from the fact that only claims for which sufficient evidence of the existence and amount of debt is presented are subject to inclusion in the register.

The substantiation and amount of creditors' claims are verified by the court taking into account objections to said claims filed by the arbitration manager, other creditors, or other persons participating in the bankruptcy case. The admission by the debtor or arbitration manager of the circumstances on which the creditor bases his claims (part 3 of Article 70 of the APC RF) does not in itself relieve the other party from the need to prove such circumstances.

When considering a separate dispute, the court, taking into account the objections received, examines the creditor's claim for fictitiousness or the provision of compensatory financing. When carrying out such verification, the courts are entitled to use data provided by authorized and other bodies from information and analytical resources, as well as structured extracts formed on their basis.

If, after verification for fictitiousness, the validity of the debt does not raise doubts (for example, the fact of transfer or transfer of funds, transfer of goods, performance of work, provision of services is established; the debt is confirmed by a document established by law), the court hearing the bankruptcy case does not examine additional circumstances related to the level of the creditor's income prior to the conclusion of the transaction, the legality of the acquisition of funds transferred to the debtor, the subsequent fate of the property received by the debtor under the transaction, the reflection of the receipt of property in the debtor's reporting, etc.

28. Creditors' claims confirmed by judicial acts that have entered into legal force are subject to inclusion in the register with determination of the priority of satisfaction of such claims without additional verification of their validity. At the same time, taking into account item 10 of Article 16 of the Bankruptcy Law, the arbitration court hearing the bankruptcy case assesses the substance of the objecting persons' arguments regarding the absence of debt if the court in another dispute did not establish or examine the circumstances to which the objecting persons refer (for example, in connection with the debtor's admission of the claim) and which are of significant importance for the formation of the register of creditors' claims in the bankruptcy case (parts 2 and 3 of Article 69 of the APC RF).

29. The consideration of an application for inclusion in the register in the manner of a documentary separate dispute and, as a consequence, the failure to collect all evidence in the court of first instance, by virtue of paragraph five of item 3 of Article 71 and paragraph five of item 3.1 of Article 100 of the Bankruptcy Law, cannot in themselves be grounds for the cancellation of the decision of the court of first instance. Similarly, the need to consider the arguments of an appeal complaint that duplicate reasoned and unconsidered objections, as well as the collection of new evidence in the court of appeal, cannot be

grounds for the application of the provisions of part 61 of Article 268 of the APC RF and the transition to the consideration of a separate dispute according to the rules established for the consideration of a case in the arbitration court of first instance, and/or cancellation of the appealed decision if the court of first instance lawfully included the creditor's claim in the register or refused to include it.

30. If reasoned objections to the creditor's claims were submitted only in the court of appeal together with the filing of an appeal, the court of appeal resolves the issue of the possibility of accepting additional evidence and new arguments, taking into account the provisions of part 2 of Article 268 of the APC RF.

31. Applications for the exclusion of creditors' claims from the register or for changing their priority, provided for by item 8 of Article 71 and item 8 of Article 100 of the Bankruptcy Law, are subject to consideration according to the rules of item 2 of Article 71 and item 3 of Article 100 of the Bankruptcy Law, while the court has the right to proceed to consider such applications in the general procedure with the appointment of a court hearing.

The three-month period for filing such an application is calculated from the moment when the arbitration manager or creditor should have become aware of the circumstances forming the basis of this application.

32. If the application provided for by item 8 of Article 71 and item 8 of Article 100 of the Bankruptcy Law is justified, the arbitration court issues a ruling on the exclusion of the creditor's claim from the register or on changing the priority of the claim. According to the meaning of these norms, in this case, review of the ruling on inclusion of creditors' claims in the register and/or cancellation of such ruling is not required.

33. According to the meaning of item 8 of Article 71 and item 8 of Article 100 of the Bankruptcy Law, arguments and evidence that were raised during the consideration of the separate dispute on the merits cannot be accepted as grounds for excluding a creditor's claim from the register or changing its priority. In such a case, proceedings on the application for exclusion of the claim or changing its priority are subject to termination.

Furthermore, during the consideration of said application, arguments and evidence that the applicant knew about and had the opportunity to present as objections during the substantive consideration of the creditor's claim cannot be accepted, as they are actually aimed at reviewing the judicial act.

34. Proceedings on an application for the exclusion of a creditor's claim from the register or for changing the priority of the claim (item 8 of Article 71, item 8 of Article 100 of the Bankruptcy Law) shall be terminated by the court on the basis of part 7 of Article 225.16 of the APC RF if a previous application on the same subject matter and for the same grounds was filed by another person participating in the bankruptcy case.

Features of notification on separate disputes

35. Persons participating in a bankruptcy case (Article 34 of the Bankruptcy Law) are notified of such a case in the manner prescribed by part 1 of Article 121 of the APC RF, once only. Thereafter, these persons independently take measures to obtain information about the progress of the case and adopted judicial acts in the manner prescribed by part 6 of Article 121 of the APC RF, including about each new separate dispute in the bankruptcy case.

At the same time, if the court has information that a person is aware of the bankruptcy case, the rule of part 1 of Article 121 of the APC RF on the first notification does not apply. Such a person independently takes measures to obtain information about the progress of the case and adopted judicial acts in the manner prescribed by part 6 of Article 121 of the APC RF. For example, this procedure applies to the current or former head of the debtor when considering disputes about demanding documents and material assets from him (item 3.2 of Article 64, paragraph four of item 1 of Article 94, paragraph two of item 2 of Article 126 of the Bankruptcy Law).

36. Pursuant to part 1 of Article 177 and part 1 of Article 186 of the APC RF, judicial acts are sent to persons participating in the case by means of their placement in the information and telecommunications network «Internet». These persons are considered to have received the judicial act upon the expiration of the next day after the day of its placement in the information and telecommunications network «Internet».

For example, if a creditor, based on item 1 of Article 71 of the Bankruptcy Law, applies for inclusion of claims in the register, he is considered to have received rulings on acceptance of the claim for proceedings, appointment of a court hearing, and a ruling on the merits of the separate dispute upon the expiration of the next day after the placement of said judicial acts in the information and telecommunications network «Internet». Additional sending of copies of said judicial acts on paper to such a creditor and other persons participating in the bankruptcy case is not required, except in cases where the court has information about the absence of the person or his representative's ability to familiarize themselves with the judicial act in the information and telecommunications network «Internet» (for example, when they are in places of deprivation of liberty).

The above procedure applies to both documentary and other separate disputes in a bankruptcy case.

37. The delivery of judicial acts to persons specified in paragraphs one and four of item 4 of Article 42 (except for the applicant and the debtor), item 2 of Article 63 of the Bankruptcy Law, is carried out by the

court via interdepartmental communication channels or to email addresses specified on their official websites; the provisions of Article 123 of the APC RF do not apply to such mailings.

38. When considering complaints about the actions (inaction) of arbitration managers and separate disputes regarding the recovery of damages from arbitration managers, it should be taken into account that the self-regulatory organization of which the arbitration manager is a member and the control (supervisory) body are notified by the court of the consideration of the bankruptcy case in the manner prescribed by item 4 of Article 42 of the Bankruptcy Law, therefore their re-notification when a separate dispute is initiated is not required.

At the same time, the arbitration court leaves such separate dispute applications without motion (part 1 of Article 128 of the APC RF) if they are not accompanied by evidence of sending a copy of the application to the self-regulatory organization of which the arbitration manager is a member, the control (supervisory) body, and the insurance organization that insured the liability of the arbitration manager.

39. If a person not participating in the bankruptcy case is brought in as a direct participant in a separate dispute (for example, as a defendant in a claim for declaring a transaction invalid or bringing to subsidiary liability) and the court lacks evidence of such person's awareness of the bankruptcy case, the guarantees of proper notification provided for in Chapter 12 of the APC RF must be fully applied to such person.

Similarly, when subsequently initiating another separate dispute involving such person, it is necessary to re-notify them by sending the first judicial act regarding the new dispute.

Appeal against court decisions in bankruptcy cases

40. Unlike the previously applicable legal regulation, all judicial acts provided for by the Bankruptcy Law and not provided for by the APC RF are initially appealed to the arbitration court of appeal, then to the arbitration court of the district (items 1 and 2 of Article 61 of the Bankruptcy Law).

Exceptions to this rule are established only for judicial acts specified in item 3 of Article 61 of the Bankruptcy Law, which are appealed to the arbitration court of appeal and are not appealed to the arbitration court of the district.

41. By virtue of Article 2 of the Bankruptcy Law, the settlement agreement in an insolvency case is an independent rehabilitation procedure. For this reason, rulings on approval and refusal to approve a settlement agreement, as well as rulings on the outcome of consideration of the dispute to invalidate the decision of the creditors' meeting to approve the settlement agreement, are appealed in accordance with

the general rules of items 1 and 2 of Article 61 of the Bankruptcy Law initially to the arbitration court of appeal, and then to the arbitration court of cassation. By virtue of the provisions of item 1 of Article 162 of the Bankruptcy Law and part 1 of Article 223 of the APC RF, appeals against such rulings are considered in the manner provided for by procedural legislation.

A similar procedure applies when appealing a ruling that approves a separate settlement agreement in accordance with Article 213.10-1 of the Bankruptcy Law.

42. The issue of appealing judicial acts in a bankruptcy case that are provided for by the APC RF is resolved in accordance with the general rules of procedural legislation. In particular, this means that a ruling on accepting an application for a bankruptcy case for proceedings (item 2 of Article 42 of the Bankruptcy Law) is not subject to appeal.

43. If an appeal is filed against a ruling made by signing the operative part, the deadlines for sending the appeal and case materials to the court of appeal are calculated from the moment the ruling is drawn up in full.

44. Appeals against rulings in documentary separate disputes are subject to consideration in accordance with the rules of part 1 of Article 272.1 and parts 1 and 2 of Article 288.2 of the APC RF. The provisions of part 3 of Article 291.1 of the APC RF do not apply in this case.

Appeal against judicial acts adopted outside bankruptcy proceedings

45. According to item 12 of Article 16 of the Bankruptcy Law, if the arbitration manager and/or creditors believe their rights have been violated by a judicial act (ruling) adopted outside the bankruptcy case, they have the right to apply, in the manner prescribed by procedural legislation, for cancellation of the judicial act according to the rules for review based on newly discovered circumstances. Such an application is submitted to the court that rendered the final decision in the case and is considered in accordance with the provisions of procedural legislation (Chapter 37 of the APC RF, Chapter 42 of the Civil Procedure Code of the Russian Federation, Chapter 37 of the Code of Administrative Proceedings of the Russian Federation).

By virtue of paragraph five of item 12 of Article 16 of the Bankruptcy Law, persons participating in the consideration of the application have the right in any instance of the court where the case review begins to submit new evidence and make new arguments that were not submitted or made during the initial consideration of the case.

46. An application filed in accordance with the rules of item 12 of Article 16 of the Bankruptcy Law may be granted, and the judicial act may be reviewed if the arguments and/or evidence presented by the participants in the proceedings indicate the presence of material circumstances for the case that were not known to the court at the time of adoption of the judicial act (ruling) and which are capable of leading to a different decision on the merits of the dispute.

47. Taking into account the provisions of paragraph two of item 4 of Article 34 of the Bankruptcy Law, an application provided for by item 12 of Article 16 of the Bankruptcy Law may be filed, including by a person controlling the debtor, but only in cases where such person confirms that they did not have the opportunity to represent the interests of the debtor or otherwise form the position of the debtor in the case at the time of the adoption of the appealed judicial act. It is assumed that the sole executive body of the debtor, who exercised powers during the period of adoption of the appealed judicial act, had such an opportunity (Article 53 of the Civil Code of the Russian Federation).

48. The provisions of item 12 of Article 16 of the Bankruptcy Law apply not only to cases in which monetary funds were recovered from the debtor, but also to other cases in which the enforcement of the judicial act may affect the formation of the bankruptcy estate and the obligations of the debtor, reducing the amount of satisfaction of creditors' claims and/or increasing the amount of subsidiary liability of the controlling person.

49. Actions (inaction) of the debtor, including acknowledgment of the claim or refusal of the claim, failure to claim the statute of limitations, conclusion of a settlement agreement, within the framework of the bankruptcy case may be declared invalid as aimed at causing harm to creditors or favoring a particular creditor, in accordance with Articles 61.2 or 61.3 of the Bankruptcy Law.

After such actions (inaction) are declared invalid, judicial acts (rulings) in cases in which these actions (inaction) were committed (allowed) are subject to review based on new circumstances in the manner established by procedural legislation, based on applications of persons specified in item 12 of Article 16 of the Bankruptcy Law.

If the creditor's claim was previously included in the register based on such a judicial act (ruling), then after the debtor's action (inaction) is declared invalid in the bankruptcy case, the creditor's claim is subject to exclusion from the register in accordance with the rules of item 8 of Article 71 and item 8 of Article 100 of the Bankruptcy Law.

50. Proceedings on an application for cancellation of a judicial act according to the rules for review based on newly discovered circumstances (item 12 of Article 16 of the Bankruptcy Law) shall be terminated by the court on the basis of part 7 of Article 225.16 of the APC RF if a previous application on

the same subject matter and for the same grounds was filed by another person participating in the bankruptcy case.

Features of personal bankruptcy

51. Pursuant to Article 34 and item 6 of Article 213.1 of the Bankruptcy Law, the spouse (former spouse) of the debtor is a participant in the bankruptcy case and has the right to participate in the consideration of both the main bankruptcy case and any separate dispute at any stage of the process.

The spouse (former spouse) of the debtor is notified of the debtor's bankruptcy case through publication in the Unified Federal Register of Bankruptcy Information of the notice of the introduction of the first bankruptcy procedure (paragraphs two and three of item 2 of Article 213.7 of the Bankruptcy Law). In such cases, the provisions of Chapter 12 of the APC RF do not apply.

However, if the spouse is a defendant in a separate dispute (for example, in a dispute on obliging him to transfer common property to the bankruptcy estate, regarding disputes concerning the sale of common property, or recognizing the spouses' obligations as joint) and the court lacks information about the spouse's awareness of the debtor's bankruptcy case, the court is obliged to notify such spouse of the consideration of the separate dispute in compliance with the rules of Articles 121 and 123 of the APC RF.

52. As a general rule, the former spouse of the debtor, whose property rights and legitimate interests may be affected during the consideration of the bankruptcy case, acts as a participant in the bankruptcy case. This includes, for example, a former spouse with whom the property was not divided or with whom the debtor was married during the period of debt formation included in the register; a spouse who has entered into transactions with common property within three years before the acceptance of the application for recognition of the debtor as bankrupt; a spouse who is a creditor or represents a creditor under alimony obligations.

53. According to the first paragraph of item 2 of Article 213.24 of the Bankruptcy Law, in the absence of an application by the financial manager to complete the sale of the citizen's property, the period of this procedure is considered extended by six months. This means that, unlike the rules for bankruptcy of legal entities, the arbitration court does not issue a ruling by signing the operative part on the extension of the relevant procedure for the citizen's bankruptcy.

In the decision to recognize the citizen as bankrupt and to introduce the procedure for the sale of his property, the court indicates that in the absence of an application by the financial manager to complete the procedure, its period will be considered extended by six months.

The issue of repeated and subsequent extension of the procedure for the sale of the citizen's property is decided by the court based on the information submitted by the financial manager on the progress of the bankruptcy case with the annexation of the relevant report (paragraph two of item 1 of Article 213.28 of the Bankruptcy Law). If the arbitration court concludes that there are grounds for considering the issue of completing the sale of the citizen's property, the court schedules a hearing to resolve it. In other cases, the period for the sale of property will be considered extended by six months without issuing a judicial act.

If all activities of the property sale procedure are completed ahead of schedule, the financial manager submits to the arbitration court within a reasonable period the documents provided for in item 1 of Article 213.28 of the Bankruptcy Law, on the basis of which the arbitration court schedules a hearing to consider the issue of completing the sale of the citizen's property.

54. Pursuant to item 1 of Article 213.26 of the Bankruptcy Law, the authority to approve the regulation on the procedure, conditions, and terms for the sale of the citizen's property (hereinafter referred to as the "sale regulation") belongs to the creditors' meeting.

In case it is impossible to hold a creditors' meeting (for example, due to lack of quorum), the arbitration manager approves the sale regulation independently and places the relevant information in the Unified Federal Register of Bankruptcy Information. The inaction of the arbitration manager, expressed in the non-placement of such information, may be declared unlawful.

According to the meaning of this provision, the arbitration court considers only disputes regarding the approved sale regulation. Applications of the arbitration manager or other persons for the approval of such regulation are subject to return without substantive consideration based on item 4 of Article 60 of the Bankruptcy Law, item 5 of part 1 of Article 129 of the APC RF.

55. Given that the establishment of creditors' claims in a citizen's bankruptcy case is carried out according to the rules of documentary separate disputes (Articles 71, 100, item 2 of Article 213.8, item 4 of Article 213.24 of the Bankruptcy Law), the issue of issuing an enforcement sheet for unsatisfied creditors' claims (paragraph two of item 5 of Article 213.28 of the Bankruptcy Law) is considered according to the same rules.

Thus, upon termination of proceedings in the bankruptcy case or refusal to release the individual debtor from further fulfillment of creditors' claims (item 4 of Article 213.28 of the Bankruptcy Law), an enforcement sheet is issued according to the rules of Article 319 of the APC RF, i.e., without scheduling a

court hearing on this issue. Similar rules apply to the claims of creditors specified in item 6 of Article 213.28 of the Bankruptcy Law.

The issue of issuing an enforcement sheet is considered in the manner provided by item 2 of Article 60 of the Bankruptcy Law, upon application of the creditor. For this purpose, the court accepts the application for issuing an enforcement sheet and sets a period within which the debtor and financial manager must inform the court about the extent to which the claim was repaid during the bankruptcy procedure. In accordance with item 5 of part 1 of Article 320 of the APC RF, the enforcement sheet must contain the operative part of the judicial act.

Based on such consideration, the arbitration court issues a ruling by signing the operative part, which indicates the amount to be recovered from the debtor in favor of the claimant. An enforcement sheet is issued for the compulsory execution of the judicial act.

A similar procedure applies in bankruptcy cases of legal entities upon termination of proceedings (Article 57 of the Bankruptcy Law).

Provision of information to the arbitration manager

56. The provisions of paragraph seven of item 1 of Article 203 and paragraph five of item 7 of Article 213.9 of the Bankruptcy Law detail the previously applicable procedure for an arbitration manager to request information about the debtor and documents regarding their activities, which is carried out without prior обращение to the arbitration court.

This procedure for extrajudicial issuance of information and documents applies, among other things, to bodies and organizations registering and recording rights to real estate, corporate and exclusive rights; bodies maintaining vehicle records; tax and customs authorities; notaries, credit and other organizations, including by direct reference of the law regarding information and documents constituting legally protected official, commercial, tax, banking and other legally protected secrets, except for state secrets.

57. If an arbitration court receives a petition to request information about the debtor from a body or organization without attaching evidence that the body or organization refused to issue information in response to the arbitration manager's request, such petition shall be returned by the arbitration court in accordance with item 4 of Article 60 of the Bankruptcy Law and item 5 of part 1 of Article 129 of the APC RF.

58. If the arbitration manager previously applied for extrajudicial issuance of information about the debtor and received a refusal, the arbitration manager is entitled to apply to the arbitration court for issuance of such information with attached evidence of the preliminary extrajudicial refusal.

The arbitration manager's petition is considered by the arbitration court in the bankruptcy case according to the rules of Article 66 of the APC RF within ten days without calling the parties or holding a court hearing. Upon consideration of the petition, a ruling is issued in the form of a resolution part (item 2 of Article 60 of the Bankruptcy Law). This ruling may be appealed in the manner provided for by items 1 and 2 of Article 61 of the Bankruptcy Law.

In a similar manner, but without submitting evidence of preliminary обращение, the financial manager's application regarding disclosure of information about the citizen's relatives (in-laws) and their property is considered (paragraph six of item 7 of Article 213.9 of the Bankruptcy Law).

59. Upon establishing the fact of an unlawful refusal to issue information to the arbitration manager, the arbitration court is entitled to issue a private ruling in accordance with Article 188.1 of the APC RF regarding the bodies and persons specified in part 1 of said article. The court, if there are appropriate grounds, may also consider imposing a court fine on the aforementioned persons according to the rules of Chapter 11 of the APC RF.

60. The refusal of bodies exercising public powers to provide information may also be challenged by the arbitration manager in the manner provided for by Chapter 24 of the APC RF. When assessing the lawfulness of the refusal, arbitration courts should proceed from the fact that the body storing the information is entitled to refuse to provide information and documents only when the arbitration manager's request is obviously unrelated to the goals and objectives of their activities regarding the formation of the bankruptcy estate and satisfaction of creditors' claims, while the existence of such a connection is presumed.

Other issues

61. Paragraph two of item 9 of Article 206 of the Bankruptcy Law provides for the extrajudicial determination of the amount of interest on the arbitration manager's remuneration amounting to less than one hundred thousand rubles. If an arbitration manager submits an application to establish such an amount of interest, this application must be returned without substantive consideration on the basis of item 4 of Article 60 of the Bankruptcy Law, item 5 of part 1 of Article 129 of the APC RF.

At the same time, persons participating in the bankruptcy case who disagree with the amount of interest independently established by the arbitration manager have the right to file a statement of disagreement, which, in accordance with item 5 of Article 59 of the Bankruptcy Law, is considered according to the rules of a documentary separate dispute.

62. The provisions of item 5 of Article 59 and item 2 of Article 60 of the Bankruptcy Law apply when considering both separate disputes on compensation of expenses in a bankruptcy case and issues of distribution of court costs incurred during the consideration of specific separate disputes.

63. According to the new wording of paragraph three of item 1 of Article 142 of the Bankruptcy Law, the deadline for closing the register may be restored by the arbitration court at the request of the creditor if there are valid reasons. In particular, valid reasons may include cases where the circumstances (material and/or procedural conditions) necessary for filing a claim against the debtor have not occurred on the day the register is closed.

64. The provisions of Articles 227-230 of the Bankruptcy Law on the insolvency of an absent debtor cannot be applied to circumvent the threshold requirements for initiating a bankruptcy case (item 2 of Article 6, item 2 of Article 33 of the Bankruptcy Law). If the court, when considering a creditor's application whose claim is less than the threshold value, concludes that the debtor does not have the characteristics provided for by Articles 227 or 230 of the Bankruptcy Law, the court refuses to recognize the absent debtor as bankrupt and to open bankruptcy proceedings.

If the organization does not meet the characteristics of an absent debtor but there are grounds provided for by Articles 6, 7 and 33 of the Bankruptcy Law, the observation procedure is introduced in relation to the debtor.

Final provisions

65. Pursuant to the adoption of this resolution, the following shall be deemed inapplicable:

items 14-16 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated April 8, 2003, No. 4 "On certain issues related to the introduction of the Federal Law "On Insolvency (Bankruptcy)";

items 9, 19, the second paragraph of item 30, items 31, 41, 52, and 64 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated December 15, 2004, No. 29 "On certain issues of the practice of applying the Federal Law "On Insolvency (Bankruptcy)";

the second paragraph of item 14, the second paragraph of item 19, items 30, 33-35 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated July 23, 2009, No. 60 "On certain issues related to the adoption of Federal Law No. 296-FL of December 30, 2008 "On Amendments to the Federal Law "On Insolvency (Bankruptcy)";

the tenth paragraph of item 1 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated December 23, 2010, No. 63 "On certain issues related to the application of Chapter III.1 of the Federal Law "On Insolvency (Bankruptcy)";

the fourth paragraph and subitems 1-3 of item 14, subitem 6 of item 15, item 16, items one to three and subitems 1-5 of item 17, the third paragraph of item 22, items 24-26, item 27 (in the part referring to item 24), items 35-35.4, 38, 50, and the eighth paragraph of item 56 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated June 22, 2012, No. 35 "On certain procedural issues related to the consideration of bankruptcy cases".

The second sentence of the first paragraph of item 44 of the Resolution of the Plenum of the Supreme Court of the Russian Federation dated October 13, 2015, No. 45 "On certain issues related to the introduction of procedures applicable in cases of insolvency (bankruptcy) of citizens" shall be deemed repealed.