

# Natural Person's Insolvency Procedure (NPIP)

under law in force as at 01.11.2010

Any **natural person (NP)** (except a sole trader) who has been a taxpayer in Latvia during the previous 6 months and is facing financial difficulties **can file a NPIP application with the court.**

The judge decides on initiating a NPIP **not later than on the day following** filing of the application.

The court reviews the NPIP **within 7 days** from the initiation day, declares a NPIP, and appoints an administrator if a NPIP indicator is found.

**Insolvency Register (IR)** has public credibility

After a declaration of NPIP, **bankruptcy procedure (BP)** begins. **Creditors' claims** must be filed within 1 month from the day when an entry is made in the IR on declaring the NPIP. A creditor who misses this deadline may file a claim within no longer than 6 months from the day when the entry is made in the IR on declaring the NPIP, but not later than by the day when a plan to satisfy creditors' claims is prepared, although he will not be entitled to vote at a creditors' meeting.

**Creditors may convene a meeting to:**

- 1) determine the administrator's remuneration;
- 2) initiate dismissal of the administrator;
- 3) approve the costs of the insolvency procedure;
- 4) extend the term for sale of NP's property.

The creditors' meeting is entitled to decide irrespective of the amount of creditors' claims represented at the meeting if information on convening the creditor's meeting is recorded in the IR. **Decisions are adopted by a simple majority of votes of unsecured creditors present**, except cases indicated by law. Creditor's votes are calculated in accordance with the sum of the creditor's principal claim. If 2/3 of creditors present and with voting rights vote to dismiss the administrator due to inefficient progress of the NPIP, the court can dismiss the administrator.

The administrator evaluates NP's transactions and disputes them if necessary. **The debtor's entire property is sold within 6 months** from the day of declaring the NPIP in compliance with the plan on selling the debtor's property prepared by the administrator.

After the NP's transactions are disputed (if they are disputed) and the property is sold, the administrator notifies creditors and the NP of ending the BP and submits a plan to satisfy obligations as prepared by the NP together with creditors. Within 15 days, creditors and the NP express their objections and proposals to end the BP.

The court approves ending the BP and a procedure for settlement of obligations (PSO) – in compliance with the plan. **Time-limit:**

- 1) 1 year from declaring PSO: at least 50% of obligations after BP settled.
- 2) 2 years from declaring PSO: at least 35% of obligations after BP settled.
- 3) 3 years from declaring PSO: at least 20% of obligations after BP settled.
- 4) 3.5 years after declaring PSO: less than 20% of obligations after BP settled, transferring 1/3 of the debtor's income for settling obligations, but not less than 1/3 of 1 minimum monthly salary.
- 5) If at least 50% of obligations after BP are settled and obligations do not exceed LVL 100,000 upon declaring the NPIP, then 1/3 of the debtor's income is transferred for settling obligations, but not less than 1/3 of 1 minimum monthly salary, until 2 years pass from the day of announcing the PSO.

**If the NP has fulfilled the PSO plan, the NP's remaining obligations in the plan are deleted and stayed execution proceedings on collection of settled obligations are terminated.**

PSO is terminated prior to its expiry:  
1) PSO limitations exist – (application submitted by the administrator, creditor);  
2) the plan is not fulfilled (application submitted by a creditor).  
**This triggers consequences of premature termination of the NPIP.**

NPIP indicators:

- 1) NP cannot pay due debts and total debt exceeds LVL 5,000;
- 2) because of provable circumstances the NP will not be able to pay debts **due within a year** and total debt **exceeds LVL 10,000.**

Precondition for applying the PSO – lack of funds to cover the administrator's lump-sum fee of 2 minimum monthly salaries.

NPIP limitations:

- 1) within the 3 years before declaring the NPIP, the NP has intentionally provided false information to creditors;
- 2) the NP has used at least 30% of credit granted for purposes outside the scope of the credit agreement;
- 3) within the 10 years before declaring the NPIP, the NP's NPIP is declared where obligations are settled;
- 4) during the 5 years before declaring the NPIP or during the NPIP, a competent institution in a criminal case finds that the NP has avoided taxes.

After declaring the NPIP:

- 1) execution proceedings to collect sums uncollected after judgment against the NP and in cases involving the NP fulfilling obligations through the court are terminated;
- 2) in bankruptcy proceedings the NP loses the right to operate with their property: this right passes to the administrator;
- 3) interest on loans (credit), legal interest, contractual penalties crystallise;
- 4) the NP loses the right to enter into transactions exceeding 1 minimum monthly salary (during the PSO – exceeding 2 monthly salaries in relation to property) more than once a month without the administrator's consent;
- 5) the NP loses the right to undertake new debt liabilities without the administrator's consent;
- 6) NP's obligations due after declaring NPIP are considered to be obligations due on the day of declaring the NPIP.

The BP and NPIP are terminated **during the BP** if NPIP limitations are found. This triggers consequences of **premature termination of the NPIP.**

BP completion is confirmed by simultaneous termination of the NPIP if  
1) during the 3 years before declaring the NPIP or during the NPIP the NP has entered into transactions resulting in NP's insolvency or losses to creditors, and the NP knew or should have known of these consequences;  
2) the NP has intentionally provided false information about their property and hidden their real income.  
**= PSO limitations**

**Consequences of premature termination of the NPIP** – creditors' rights to claim full satisfaction of the NP's outstanding obligations are restored, execution proceedings to collect sums uncollected after judgment against the NP and in cases involving the NP fulfilling obligations through the court are restored.