

## Denmark

# Rescue procedures in insolvency

<b>Phase</b>	Bankruptcy Act (Consolidation Act no. 1600 of 25/12/2022)
<b>Native name</b>	LBK nr 1600 af 25/12/2022
<b>Type</b>	Rescue procedures in insolvency
<b>Added to database</b>	06 December 2016
<b>Access online</b>	<a href="#">Click here to access online</a>

## Article

Part IV, chapters 25-28

## Description

The Danish Bankruptcy Act (Konkursloven, LBK nr 11 af 06/01/2014) distinguishes between three different types of insolvency. These are bankruptcy, restructuring, and debt relief. Bankruptcy and restructuring are applicable to both legal and natural persons, while debt relief is reserved for natural persons. Aside from these judicially regulated insolvency proceedings, other non-judicial rescue procedures can be utilised, as long as the creditor agrees to it.

Restructuring proceedings can be opened through an application by either the debtor or a creditor, which then needs to be approved by the bankruptcy court. The requirement for opening restructuring proceedings is that the debtor is considered to be insolvent.

An administrator and an accountant are appointed by the bankruptcy court for the restructuring process. Although the debtor maintains control of his/her assets when entering into restructuring proceedings, he/she is required to obtain the approval of the administrator for certain large transactions. The administrator will propose a restructuring plan, which the creditors then vote on.

Restructuring proceedings generally end with one of three options:

1. The debtor recovers from the financial strains and is able to continue operating the business,
2. a compulsory composition is carried out, or
3. the debtor faces bankruptcy.

Compulsory composition (tvangsakkord) is a legally regulated restructuring procedure, in which either the amount of debt that the debtor has to pay to the creditors is reduced, or the debtor's property, or part of it, is distributed to the creditors, or the timeframe for repayment can simply be extended. A mixture of the aforementioned alternatives can also be utilised. The debtor can apply for the commencement of compulsory composition proceedings. The aim of a compulsory composition is either to enable the company to continue operating, or to free the debtor from the remaining company so that the debtor can set up a new company without the burden of the old one.

After several amendments to the bankruptcy law a new law was implemented 25 December 2022 (LBK nr 1600 af 25/12/2022). On 9 June 2022, the Danish Parliament adopted a number of amendments to the Bankruptcy Act, which entered into force on 17 July 2022. The amendments to the law are based on the Bankruptcy Council's two reports (no. 1578 and 1579 issued in 2022) and implement EU directive 2019/1023 of 20 June 2019.

There is a completely new section in the Bankruptcy Act on preventive reconstruction. A debtor can be taken under preventive restructuring if the debtor is either insolvent or is likely to become insolvent.

There are minor adjustments to the rules on reconstruction. Among other things, there have been changes in the rules on voting on a reconstruction proposal, and as something new, there are rules that overdue claims for B-tax and advance tax are covered by compulsory agreements.

The rules on debt restructuring have been changed, among other things with the aim of improving entrepreneurs' opportunities to start a new business after bankruptcy. The Minister for Business has been authorized to lay down rules on early warning. The purpose of launching early warning measures is to help companies become aware "in time" that a company is in financial trouble. In this way, the company can act on the early financial problems and hopefully avoid bankruptcy.

## Commentary

[The Danish statistics database](#) provides data on bankruptcies.

## Additional metadata

<b>Cost covered by</b>	None
<b>Involved actors other than national government</b>	Other Court
<b>Involvement (others)</b>	Creditors
<b>Thresholds</b>	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

## Sources

- [Konkursloven](#)~~~ [Danmarks statistik](#)~~~ [Bankruptcy and a fresh start: Stigma on failure and legal consequences of bankruptcy - Denmark](#)~~~ [Statistikbanken](#)~~~ [Konkursloven LBK nr 1600 af 25/12/202](#)~~~

## Citation

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