

Is there anyone who owes you or whom you owe money? The rules for requests for payment will be changed!

As from 1 July 2017, Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings (“the Bankruptcy Act”) will be amended on several points. One of the essential purposes of the legislative amendment was to specify certain provisions, which cause problems in the application of law, thus the relevant rules for requests for payment and disputing the claim which the creditor intends to enforce against the debtor have also been arranged more logically and specified. The content elements of the written request addressed to the debtor- delivered prior to the liquidation proceedings- furthermore the rules for sending the letter of formal notice (request for payment) by post have been supplemented.

The court declares a debtor insolvent if the debtor has not settled her/his payments or has not disputed her/his contractual debt not disputed or acknowledged within twenty (20) days after the expiry of the due date, and s/he has also failed to make any payments upon the written request for payment sent by the creditor. The written request for payment of the creditor, which remained unfulfilled by the debtor, is the last measure of the creditor, which precedes the request for the debtor’s liquidation addressed to the competent court.

Thus, it is essential to precisely comply with the rules governing requests for payment prescribed by the Bankruptcy Act, otherwise the court rejects the request of the creditor regarding the debtor’s liquidation.

The rules for the content of the request for payment have been currently worded differently but their content has remained unchanged in the Bankruptcy Act applicable as from 1 July 2017. **The essential elements of the request for payment** remain as follows:

- the legal title of the debtor’s debt,
- the amount of the debt and the due date, and
- the determination of the final deadline, after the unsuccessful expiry of which the creditor intends to open liquidation proceedings or to enforce the claim by means of other legal instruments.



However, the rules for sending requests for payment by post will be changed compared with the previous practice

If the creditor does not intend to send the request for payment by personal delivery, rather s/he sends it to the debtor by post, **as from 1 July 2017, s/he may only send it by registered mail using the additional service of return receipt requested.** Until 30 June 2017, the request for payment can be also sent as "other registered mail" and the mail must be deemed as received on the fifth business day after it has been posted unless otherwise proven, namely the delivery will be deemed to have taken place. Earlier, if the debtor refused to accept the delivery then the creditor had the opportunity for sending the mail as a general registered mail to the debtor and taking into account the five- day fiction of delivery the deadline indicated in the request for payment began to run accordingly.

According to the new rule, however, the request for payment can only be sent as a registered mail, using the additional service of return receipt requested but the delivery can also be deemed to have taken place as follows: the mail must be regarded to have been received by the recipient **on the fifteenth business day after it has been posted** even if:

- the delivery is hindered under the rules for postal delivery
- the recipient Party refused to accept the mail, or
- the mail provided by the postal service provider has remained unclaimed by the recipient Party.