LAW ON PAYMENT OPERATIONS

("Official Gazette of the Republic of Macedonia " 32/01, 50/01, 103/01, 37/02, 61/02 and 42/03")
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I. GENERAL PROVISIONS

Article 1

This Law shall regulate the payment operations in the country (hereinafter: payment operations).

Article 2

Certain terms used in this Law shall have the following meaning:

"Payment operations" shall denote payments in denars made by the participants in the payment operations through the institutions responsible for conducting payment operations.

"Participant in the payment operations" shall denote a domestic or foreign, legal or natural person performing a registered activity or other natural person who makes denar payments through the institutions responsible for conducting payment operations.

"Payment" shall denote:
- cash payment in an account,
- transfer of funds from one account to another and
- cash payment from an account.

"Account" shall denote a unique and unrepeatable number which contains information about the state of the funds of the participant in the payment operations, through which it makes payments.

"Payment instrument" shall denote an order with which the participant in the payment operations obliges the institution responsible for conducting payment operations to make a payment.

"Contents of a payment instrument" shall denote a set of elements of the payment instrument that carry information about its identification and execution.

"Transfer medium" shall denote carrier of information which contains a payment instrument.

"Form of a payment instrument" shall denote a layout of the elements of the payment instrument.

"Decision on forced collection" shall denote a valid court decision for approval of execution, executive decision for charge for offence, executive decision on collection of public fees or decision by other bodies authorized by law.

"Completion of payment" shall denote the moment when the funds are available to the recipient.

“Order for blocking of funds” shall denote a written order for blocking the funds on the account of the participant – debtor, pursuant to law.
II. INSTITUTIONS RESPONSIBLE FOR CONDUCTING PAYMENT OPERATIONS

Article 3

The institutions responsible for conducting payment operations shall be the National Bank of the Republic of Macedonia (hereinafter: National Bank) and the banks that have obtained license to perform payment operations pursuant to law.

Article 4

The institution responsible for conducting payment operations is obliged to provide:

1. A unique account for settlement at the National Bank;
2. Main number through which it can uniquely be identified;
3. Settlement of the payment instruments of the participants in the payment operations during the day, and at least by the end of the day according to the schedule of the settlement system at the National Bank;
4. Rules and procedures for using the services which it offers to the participants in the payment operations;
5. Equality and identical treatment of all the participants in the payment operations;
6. Security and operational accessibility;
7. Procedures for timely completion of processing, in case of technical problems;
8. Confidentiality of data on the statement of account;
9. Protection of data about the holder of the account;
10. Safe and efficient transfer of funds among the participants in the payment operations and
11. Notification to the participants in the payment operations on the statement and the changes of their accounts.

Article 5

The National Bank as an institution responsible for conducting payment operations, shall perform the following activities:

1. Organize a settlement system among the institutions responsible for conducting payment operations;
2. Open and manage an account of the banks, deposit accounts of broker associations and other accounts that have been prescribed by law to be managed at the National Bank and shall make payments from accounts;
3. Open and manage other accounts, unless otherwise stipulated by law;
4. Open and manage a Treasury account for centralized execution of the payments from all accounts within the Treasury account, with the records of the inflows, outflows and the balance of the account within the Treasury account being maintained in the Treasury at the Ministry of Finance.
5. Manage accrual accounts of the institutions that calculate and determine the liabilities among the institutions responsible for conducting payment operations.
6. Prescribe a standard for the construction of the accounts of the participants in the payment operations;
7. Assign a main number to the institutions responsible for conducting payment operations;
8. Determine the amount of the payment which is a small-scale inter-bank payment;
9. Supervises the operations of the banks and other institutions which render services in the payment operations;
10. Issue and revoke license for performing payment operations;
11. Prescribe the criteria for the issuance and revocation of licenses for performing payment operations;
12. Manage a register of accounts within its system and inform the Single Registry of Account Holders thereof.

Article 6

The banks in the payment operations shall perform the following:

1. Open and manage accounts of the participants in the payment operations and shall make payments through accounts and
2. Manage a register of accounts within their system and shall inform the Single Registry of Account Holders thereof.

III. CONDUCT OF PAYMENT OPERATIONS

Article 7

The payment through the accounts shall be non-cash and shall be calculated pursuant to law.

Article 7-a

For cash payment purposes, the participant in the payment operations may withdraw cash from its accounts and keep it in the vault in the amount of the maximum cash in vaults.

The amount of the maximum cash in vault shall be determined by the participant in the payment operations by a general act.

The cash payment for goods and services may not exceed EUR 100 each in Denar equivalent by the middle exchange rate of the National Bank of the Republic of Macedonia as of the payment day.

The Minister of Finance shall prescribe the terms and conditions for collecting, managing cash and making cash payments.

The Minister of Defense shall prescribe the terms and conditions for cash payment for the Army units, institutions and organizations.

Article 8

Payment instruments shall be used for performing the payment operations.
The payment instruments, their form and contents shall be prescribed by the Minister of Finance.

The media for transfer of the payment instruments shall be a subject of agreement between the institution responsible for conducting payment operations and the participant in the payment operations.

Article 9

The institution responsible for conducting payment operations, in order to perform payment operations, shall open an account of the participant upon their written request.

The participant in the payment operations may have accounts with one institution responsible for conducting payment operations.

The participant in the payment operations may have accounts with several institutions responsible for conducting payment operations.

The participant in the payment operations is obliged to pay all the funds received in cash on whatever grounds in his account on the same day, or on the next business day at the latest.

The manner and the procedure for opening and closing the account as referred to in paragraph 1 of this Article shall be prescribed by the Minister of Finance.

Article 10

The institution responsible for conducting payment operations shall annul the account of the participant in the payment operations upon his written request, if it fulfills the prescribed conditions, on the basis of a court decision or at the order of a competent body.

Article 11

The institution responsible for conducting payment operations is obliged to submit the data from its register of account holders to the Single Registry of Account Holders.

The clearing house which maintains the Single Registry of Account Holders shall be required to submit data on account holders and the accounts maintained by the institutions responsible for conducting payment operations to the Central Registry.

The clearing house shall submit the data referred to in paragraph 2 of this Article to the Central Registry, free of charge.

The participant in the payment operations is obliged to notify in a written form the institutions responsible for conducting payment operations with which it holds an account about all the changes in the status and other changes which have occurred, within three days at the latest from the day the changes occurred.

The Single Registry of Account Holders shall be managed at a clearing house.
Article 12

The institution responsible for conducting payment operations is obliged to notify the Single Registry of Account Holders on the opening and annulment of the account and on the changes in the status of the participant in the payment operations, at the latest until the end of the office hours of the Single Registry of Account Holders, on the day of receiving the notification.

The institution responsible for conducting payment operations must not perform payment operations through the participant's account, had it not followed paragraph 1 of this Article.

Article 13

The data from the Single Registry of Account Holders may be used under the terms and conditions stipulated by law.

Article 14

A payment instrument from the account may be issued by:

1. The participant in the payment operations - holder of the account;
2. Other participants in the payment operations - creditors, on the basis of a guarantee with the clause “irrevocably, at first call, unconditionally” which is activated immediately by transferring funds from the account of the issuer of the guarantee and on the basis of other payment securing instrument specified by a law;
3. The institution responsible for conducting payment operations on the basis of contractual authorizations, decisions on forced collection and orders for blocking the funds;
4. Institution responsible for conducting payment operations for correcting an error made by an institution responsible for conducting payment operations, excluding the Treasury account;
5. The Treasury at the Ministry of Finance, for accounts within the Treasury account, in accordance with Article 17-b of this Law.

Article 14-a

The institution responsible for conducting payment operations shall allow payment of the salary only if taxes and contributions are previously paid.

Article 15

The payment on basis of the payment instrument shall be made if there are funds on the account from which the payment instrument is issued.

Article 16

The institution responsible for conducting payment operations shall enforce the decisions on forced collection as well as the orders for blocking the funds pursuant to law.
In the case of several decisions on forced collection and orders for blocking the funds they shall be entered into the records and executed according to the date and the time of their arrival.

**Article 17**

The decision on forced collection shall be submitted to the institution responsible for conducting payment operations indicated in the decision on forced collection.

The institution responsible for conducting payment operations shall enforce the decision on forced collection using all available funds on the Denar and foreign exchange accounts of the participant in the payment operations – debtor with the institution responsible for conducting payment operations.

In the case the participant in the payment operations – debtor lacks funds on the Denar accounts for complete enforcement of the decision on forced collection, the institution responsible for conducting payment operations shall carry out a conversion of funds into Denars from the foreign exchange accounts applying the middle exchange rate of the National Bank of the Republic of Macedonia valid on the date of the transaction and transfer to the Denar account of the participant in the payment operations – debtor to the extent of funds necessary for complete enforcement of the decision on forced collection.

In the case of lack of funds for complete enforcement of the decision on forced collection, the institution responsible for conducting payment operations shall enforce the decision to the extent of the funds available and by submitting the tax number of the participant - debtor shall notify, through the Single Registry of Account Holders, all other institutions responsible for conducting payment operations that they may not make payments using the funds on the Denar and foreign exchange accounts of the participant – debtor until the complete enforcement of the decision, except for orders for transferring funds to the account with the institution responsible for conducting payment operations, which is to enforce the decision on forced collection.

The institution responsible for conducting payment operations shall immediately notify the participant – debtor on the ban on performing payment operations through its accounts. Upon receiving such notification, the participant – debtor shall, on the first working day, transfer funds to the institution responsible for conducting payment operations which records all unexecuted payment orders on the basis of the decision on forced collection, if they hold funds on the accounts with the other institution responsible for conducting payment operations.

Upon settling the liabilities on the basis of the respective decision on forced collection, the institution responsible for conducting payment operations shall notify all institutions responsible for conducting payment operations though the Single Registry of Account Holders that they may continue performing payment operations for the participant – debtor.

**Article 17-a**

The Ministry of Finance and the Agency for Funds Management shall give order for blocking the funds for the overdue liabilities entrusted to the Agency for Funds Management and the
Ministry of Finance by a law, to the institution responsible for conducting payment operations where the participant in the payment operations holds an account.

In the case of lack of funds for complete execution of the order for blocking of funds referred to in paragraph 1 of this Article, the institution responsible for conducting payment operations shall act pursuant to the provisions of Article 17 of this Law.

Article 17-b

The decisions on forced collection debiting the Treasury account, i.e. the debtor’s account which is a part of the Treasury account, shall be enforced by the institution responsible for conducting payment operation by preparing execution orders and submit them to the Treasury at the Ministry of Finance where the debtor holds its account, in order to be executed.

In the case of lack of funds on the debtor’s account within the Treasury account for complete execution of the orders, the Treasury at the Ministry of Finance shall execute such orders to the extent of the funds available on the debtor’s account, and shall block the payments of the debtor till the complete execution of the orders for the remaining portion.

The Ministry of Finance shall immediately notify the institution responsible for conducting payment operation which maintains the Treasury account on the blocking.

The Minister of Finance shall precisely specify the manner of executing the orders referred to in paragraph 1 of this Article when the Treasury account, i.e. the debtor’s account housed within the Treasury account, is debited.

Article 18

The institution responsible for conducting payment operations may charge fee for performing the payment operations.

Article 19

A clearing house shall be established for the purpose of determining and netting the payments of the institutions responsible for conducting payment operations on the basis of inter-bank payments, determining and netting other inter-bank transactions, connecting and exchanging data between banks, connecting and exchanging data between banks and other entities, maintaining databases of interest for the banking operations, designing information systems of interest for the banking operations and designing other information systems.

The manner, type and the amount of the payments which are the base for the operations of the clearing house shall be determined with the Acts of the clearing house.

Article 20

The clearing house shall have the capacity of a legal person that is entered into the Trade Registry.

The clearing house shall be established by the institutions responsible for conducting payment operations.
Article 21

Participants in the operations of the clearing house shall be the institutions responsible for conducting payment operations.

The participants in the operations of the clearing house shall open an accrual account.

The mutual rights and obligations of the clearing house and the participants in the operations of the clearing house shall be regulated with an agreement.

The National Bank shall supervise the operations of the clearing house.

Article 21-a

For the purpose of performing payment operations with the national payment card, a Shareholder Company for National Payment Card shall be established (hereinafter: Company).

The Company shall be established upon a Government Decision by 31 December 2001 at the latest with a possibility of being sold to banks having been granted a license to perform payment operations, according to the Law.

The Company shall act in the capacity of a legal entity, trade company, that shall be entered into the Trade Registry.

Article 21-b

The Company shall perform the following activities:

- switching - providing an opportunity for each bank by joining the Company to gain access to all the devices for electronic payment at every point of sale (POS) and to the automatic teller machines (ATM) so that their clients may use them for making card payments;

- processing transactions and checking data about card holders, transaction authorization, recording transaction data, including the card holder's balance change, as well as recording incurred expenses and calculating fees and other functions related to the accounts of card holders and service providers;

- managing and keeping the whole documentation of card holders and through its service resolving claims arising from its current operations;

- printing and making payment cards;

- technical maintenance of the entire network of POS and ATM devices;

- calculation and automated inclusion in the clearing of the payment card transactions made on the current day;

- statements on transactions performed for banks' purposes; and
- provision of other appropriate services.

Article 21-c

The Company's bodies shall be its Director and the Board of Directors.

The Company's Board of Directors shall comprise five members delegated by the Government of the Republic of Macedonia: three at the proposal of the Minister of Finance, one at the proposal of the Governor of the National Bank of the Republic of Macedonia and one at the proposal of the Banking and Insurance Association within the Macedonian Chamber of Commerce.

The Company's Director shall be appointed by the Board of Directors for a period of four years.

The Company shall adopt a Statute that more closely regulates the operations and the organization. The Statute shall be adopted within 30 days of the Director's appointment.

The Government of the Republic of Macedonia shall supervise the Company's operations.

IV. SETTLEMENT AMONG THE INSTITUTIONS RESPONSIBLE FOR CONDUCTING PAYMENT OPERATIONS

Article 22

The institutions responsible for conducting payment operations shall settle the payments through the settlement system at the National Bank.

Article 23

The payments among the participants in the payment operations shall be regarded as final when the institution responsible for conducting payment operations settles the result of the determining of the liabilities that originate from these payments with the settlement system at the National Bank.

V. PENALTY PROVISIONS

Article 24

The institution responsible for conducting payment operations shall be fined from Denar 250,000 to 300,000 if it:
1) infringes the confidentiality of the data on the statement of the account (Article 4 item 8);
2) fails to manage a registry of accounts within its system (Article 6 item 2);
3) acts contrary to the manner and the procedure for opening and closing an account (Article 9 paragraph 5);
4) acts contrary to Article 4 paragraph 1 item 3.
5) fails to annul the account pursuant to Article 10 of this Law;
6) performs payment operations through an account which is not registered in the Single Registry of Account Holders (Article 12);
7) fails to carry out the request for correcting an error (Article 14 item 4);
8) acts contrary to Articles 16 and 17 of this Law.

Both the responsible person and the other persons with special rights and responsibilities with the institution responsible for conducting payment operations shall be sentenced to a 30 to 90 day imprisonment and fined from Denar 40,000 to 50,000 for the infringement as referred to in paragraph 1 of this Article.

For the infringements referred to in paragraph 1, items 1, 6 and 8 of this Article, the legal entity may also be delivered a security measure forbidding it to perform a certain activity in a period of no less than six months and no more than five years.

For the infringements referred to in paragraph 1, items 1, 6 and 8 of this Article, the persons referred to in paragraph 2 of this Article may be delivered a security measure forbidding them to perform their profession, activity or duty in a period of no less than three months and no more than a year.

Article 24-a

The institution responsible for conducting payment operations shall be fined from Denar 250,000 to 300,000 for infringement if it allows payment of the salary without previously paying taxes and contributions.

The responsible person with the institution responsible for conducting payment operations shall be also fined with Denar 40,000 to 50,000 for the infringement referred to in paragraph 1 of this Article.

Article 25

The clearing house shall be fined from Denar 250,000 to 300,000 for infringement, if it impedes the National Bank to conduct the supervision (Article 21 paragraph 4).

Both the responsible person and the other persons with special rights and responsibilities with the clearing house shall be sentenced to a 30 to 90 day imprisonment and fined from Denar 40,000 to 50,000 for the infringement as referred to in paragraph 1 of this Article.

Article 26
The legal person - participant in the payment operations shall be fined for an infringement from Denar 250,000 to 300,000 if it fails to pay cash in its account within the prescribed period (Article 9 paragraph 4) and if acting in breach of Article 7 of this Law.

The natural person who performs registered activity - a participant in the payment operations, shall also be fined for deeds from Denar 40,000 to 50,000 for the infringement referred to in paragraph 1 of this Article.

Article 26-a

Any legal entity participating in the payment operations shall be fined for an infringement with Denar 250,000 to 300,000 if it keeps cash in vault exceeding the maximum amount of cash in vault, performs cash payments and acts in breach of the terms and conditions of cash payment (Article 7-a).

Any natural person participating in the payment operations and committing the infringement referred to in paragraph 1 of this Article shall be fined with Denar 40,000 to 50,000.

The responsible person in the legal entity participating in the payment operations and committing the infringement referred to in paragraph 1 of this Article shall be fined with Denar 40,000 to 50,000.

VI. TRANSITIONAL AND CLOSING PROVISIONS

Article 27

The Payment Operations Bureau shall perform the payment operations stipulated with the Law on Payment Operations ("Official Gazette of the Republic of Macedonia" No. 80/93, 9/94, 65/95, 71/96, 7/98 and 16/2000) and other laws, until 31st December 2001 at the latest.

Article 28

The participants in the payment operations are obliged to transfer their giro accounts from the Payment Operations Bureau to the institutions responsible for conducting payment operations, by 31st December 2001 at the latest.

The participants in the payment operations are obliged to commence the performance of the payment operations through the institutions responsible for conducting payment operations, starting from 1st July 2001 until 31st December 2001, with the dynamics that shall be determined by the Minister of Finance.

The participant that has not acted pursuant to paragraph 1 of this Article, starting from 1st January 2002 shall not be able to make any payment.

The processing of data on the payments made among the participants in the payment operations the giro accounts of which are still at the Payment Operations Bureau, shall be carried out by the Payment Operations Bureau by 31st December 2001 at the latest.

Article 28-a
The acceptance orders issued by 30 June 2001 inclusive shall be executed until they are completely collected.

Participants in the payments operations shall report the acceptance orders, issued by 30 June 2001 inclusive, in the Payment Operations Bureau by 30 August 2001 at the latest.

The manner and the procedure of executing the acceptance orders shall be prescribed by the Minister of Finance.

Article 29

The National Bank shall take over the giro accounts of the institutions responsible for conducting payment operations by 3rd June 2001 at the latest.

The Payment Operations Bureau shall process the data on the payments made among the institutions responsible for conducting payment operations until the taking over of their accounts by the National Bank.

Article 30

The clearing house shall be established and shall commence its operations by 30th June 2001 at the latest.

Article 31

The Acts that shall provide material and organizational conditions for the payment system pursuant to this Law, shall be passed by the institutions responsible for conducting payment operations and other institutions involved in the payment operations within 30 days from the day this Law goes into effect.


Article 32

The revised text of this Law encompasses the Law on Payment Operations ("Official Gazette of RM" No. 32/01) and the Law on Amending the Law on Payment Operations ("Official Gazette of RM" No. 50/01, 103/01, 37/02, 61/02 and 42/03), which contain the date of their enforcement.