

**HOUSING TRANSACTIONS ACT**

September 23, 1994

Chapter 1

**General provisions**

Section 1

*Scope of application of this Act*

This Act applies to the sale of housing shares or any other interest in a corporation conferring the right of possession to a residential apartment, to protection of the legal and financial status of buyers of housing shares at the construction stage, and to certain other legal relationships involved in the production and sale of the housing referred to above.

This Act does not apply to:

- 1) sale of an interest in a corporation which confers the right of possession to a residential apartment by virtue of a lease, as referred to in the Tenancy Act (653/87);
- 2) transactions in which the duration of the right to possession of a residential apartment acquired by purchase of an interest in a corporation is restricted; or
- 3) assignment of the right of occupancy referred to in the Right-of-Occupancy Housing Act (650/90).

This Act's provisions on transactions also apply as appropriate to exchanges.

Section 2

*Definitions*

For the purposes of this Act:

- 1) *housing share* shall mean a share in a housing company or other limited-liability company which confers the right of

possession, either severally or jointly with other shares, to a residential apartment;

2) *housing corporation* shall mean a housing company or other limited-liability company whose shares, either severally or jointly with other shares, confer the right of possession to residential apartments as referred to in subparagraph 1 above, or a cooperative housing society;

3) *construction stage* shall mean the period preceding the approval for use of a new or renovated building owned by a housing company or other limited-liability company and preceding transfer of the company to management by the buyers of shares; the construction stage ends when the building inspection authority has approved the building or buildings owned by the company for use in full and a new board has been elected for the company in accordance with chapter 2, section 23.

4) *founding shareholder* shall mean a person, corporation or foundation which subscribes to or otherwise owns a housing share during the construction stage; a party who has assigned his title to the share before the share is placed on the market for purchase by consumers shall not, however, be considered a founding shareholder, unless probable cause is shown that the assignee is acting as the assignor's agent; nor shall a consumer who acquired the title to a share by assignment before the construction stage ended be considered a founding shareholder, unless probable cause is shown that the person in question is acting as the assignor's agent;

5) *consumer* shall mean a natural person who acquires a housing share or other interest in a corporation referred to in section 1 for any main purpose other than business operations; and

6) *economic operator* shall mean a natural person or a private or public legal person who deals in residential apartments on a commercial basis or offers them for purchase against consideration.

## Chapter 2

### **Protection of the buyer during the construction stage**

#### Section 1

##### *Scope of application of this chapter*

The provisions of this chapter shall apply whenever housing shares are placed on the market for purchase by consumers before the building inspection authority has approved all of the company's buildings for use. For the purposes of this chapter, *placing on the market* shall mean offering a share to the consumer on terms under which he cannot withdraw from the transaction without legal consequences.

Notwithstanding, the provisions of this chapter shall not apply if the company buildings contain or will contain no more than three residential apartments altogether and the company is not a housing company.

## Section 2

### *Peremptory nature of provisions*

Any contract term restricting the rights of the share buyer or the housing company under this chapter shall be null and void.

## Section 3

### *Safekeeping documents*

Founding shareholders shall see to it that the *documents* required by decree and relating to the company, its financing plan and construction or repair projects (*safekeeping documents*) are placed in safekeeping as provided in this chapter.

## Section 4

### *Inspection and safekeeping of the safekeeping documents*

If a housing company takes out a loan from a savings bank or another credit institution, to be repaid entirely or in part with funds to be collected from the shareholders after the construction stage, the safekeeping documents shall be deposited in the bank or credit institution providing the loan. If the housing company does not take out such loan, the documents shall be kept by the provincial government for the company's place of domicile. Even in the latter case, the documents can be kept by a bank or credit institution which agrees to do so. A bank or credit institution in which safekeeping documents are deposited must keep them in Finland

and, if possible, in the housing company's place of domicile.

The safekeeping documents shall be deposited for safekeeping before the housing shares are first offered for sale, unless otherwise provided by decree with respect to any specific document. However, collateral can be raised during the construction stage as provided in section 17 without prejudice to this subparagraph.

The keeper of the safekeeping documents<sup>1</sup> shall be notified immediately of any alteration made to said documents or any change in matters dealt with in the documents, as specified in greater detail by decree.

The keeper of documents shall verify that the contents thereof comply with requirements laid down by decree before accepting them for safekeeping. Founding shareholders shall be notified immediately of any deficiency or error detected, and given the opportunity to correct it. The keeper of documents shall also verify and monitor the collateral provided to ensure that it complies with the requirements set out in section 17, and notify the shareholder of any deficiency. At the end of the construction stage, the safekeeping documents shall be surrendered to the housing company.

## Section 5

### *Disclosing information on safekeeping documents*

The keeper of documents and the housing company shall provide, on request, information about the content of the documents, and copies and certificates, to founding shareholders, share buyers, auditors and anyone who needs such information to purchase or pledge a share. Information on restrictions on the housing company's right of commitment arising from sections 8–10 of this chapter, and certificates and copies related to such information, shall also be issued to anyone who needs the information in order to fulfil the ascertainment duty referred to in section 10.

## Section 6

### *Safekeeping and surrender of share certificates and promissory notes*

The keeper of documents shall have share certificates printed at a printing establishment

1. Referred to in the following as the *keeper of documents*.  
(Translator's note)

accredited to print housing company share certificates, and keep them safe. The keeper shall provide pledgees with a certificate on the keeping of share certificates.

The keeper shall not surrender a share certificate to the buyer without the seller's consent until it is established that the buyer has fulfilled his obligation to pay the purchase price and other comparable obligations arising from the sale contract. If a share has been pledged as security, the share certificate shall be surrendered to the pledgee instead of the buyer or, if there are several pledgees, to the pledgee with the highest priority. At the same time, the party taking possession of the share certificate shall be provided with any necessary information concerning other pledgees. The seller shall not be entitled to take possession of the share certificate on the basis of a lien referred to in chapter 4, section 29, paragraph 4. Any unsold shares shall be surrendered to their owner at the end of the construction stage.

Any promissory notes secured by the company's real estate or the lease to the land or the buildings which do not constitute security for the company's debts under the financing plan shall be surrendered to the keeper of documents. Promissory notes in safekeeping can only be surrendered in accordance with the financing plan.

#### Section 7

##### *Fees charged by the keeper of documents for services*

The keeper of documents shall have the right to charge the housing company a reasonable fee for printing the share certificates, keeping the safekeeping documents, share certificates and promissory notes, maintaining the list referred to in section 15 and other similar duties, and likewise to charge the requesting party a reasonable fee for supplying certificates or copies.

#### Section 8

##### *Significance of and changes to the financing plan*

During the construction stage, the housing company may take out loans, deposit its assets as security or undertake other commitments only in accordance with its financing plan.

When one or more shares have been sold to a consumer, the total debt specified in a financing plan in safekeeping can be raised or other liabilities increased only if:

- 1) all share buyers agree to the proposed change in writing; or
- 2) a situation referred to in section 39, paragraph 3, of the Housing Companies Act (804/

91) is concerned, and the share buyers to whom the duty to pay will apply agree to the proposed change in writing.

Any change in the financing plan shall be reported to the keeper of documents and the share buyers before taking any legal or other action entailed by the change.

## Section 9

### *Altering the financing plan without the share buyers' consent*

The debts and liabilities specified in the financing plan can be raised without prejudice to section 8, paragraph 2, if the increase is based on:

- 1) a rise in building costs due to a legislative amendment, an official decision or an unforeseeable and insurmountable obstacle to construction, as a result of which the company is obliged to pay a premium under the contract for construction or repairs;
- 2) a reconsideration permitted by law owing to a change in the value of the currency, as a result of which the company is obliged to pay a premium under the terms of the construction or repair contract;
- 3) an increase in the company's other liabilities arising from a legislative amendment or an official decision which could not be foreseen at the time when the financing plan was drawn up.

A further prerequisite for altering the financing plan referred to in paragraph 1 above is that the condition constituting grounds for the alteration was included in the sale contract.

Any alteration to the financing plan on the basis of this section shall be made and the keeper of documents shall be notified thereof without delay after the obligation constituting the grounds for the alteration has arisen. An explanation of the grounds for the alteration shall be appended to the notification. The share buyers shall also be notified without delay of the alteration to the financing plan and its grounds.

## Section 10

### *Ineffectiveness of legal transactions performed contrary to the financing plan*

If the housing company has contracted debts, pledged its assets as security or performed any other legal transaction contrary to the provisions of section 8 or 9, such transaction shall not bind the company if:

- 1) the other party to the transaction was aware that the transaction was contrary to the pro-

visions of section 8 or 9;

2) the other party failed to ascertain the restrictions on the right to contract obligations under the financing plan; or

3) the other party should otherwise have known that the transaction was contrary to the provisions of section 8 or 9.

If the company has made any other remittance under any obligation that was not taken into account in the financing plan and that does not justify alteration of the financing plan under section 9, such remittance must be refunded subject to the conditions specified in paragraph 1 above.

## Section 11

### *Assignment and pledging of shares*

When a founding shareholder sells a housing share during the construction stage, the sale contract must be made in writing in order to be binding on the buyer. The sale contract shall not bind the buyer until security for fulfilment of the contract has been put up as provided in section 17. The founding shareholder shall notify the keeper of documents of the sale contract for the purpose of making the entry in the register referred to in section 15 on pain of the contract ceasing to bind the buyer if notification is not made without delay.

More detailed provisions on the contents of the sale contract referred to in paragraph 1 above can be made by decree. The Ministry of the Environment can approve a form for sale contracts.

Any pledge of a share in a housing company made during construction that has not been made in writing shall be ineffective. A founding member shall not pledge a share which has been sold; nor shall he sell a share which he has pledged. If a pledged share is sold or a sold share is pledged in violation of the above prohibition, the lien shall be ineffective in respect of the buyer unless he has given the pledge his written consent, specifying the claim which is the object of the lien.

If a founding shareholder retains the title to a share which he has sold, the buyer shall hold a lien on the purchased share in the event of cancellation as security for repayment of the purchase price plus interest accrued under chapter 4, section 36, paragraph 1.

## Section 12

### *Transaction payment account*

For each housing company under construction, the founding shareholder shall open a separate account in the deposit bank in which the safekeeping documents are deposited. If the documents are kept elsewhere than in a deposit bank, the account shall be opened in a deposit bank approved by the keeper of documents.

The transaction prices for shares shall be paid for the benefit of the seller to the account referred to in paragraph 1 above. Transaction prices paid to an account shall not be used for purposes other than the construction or repair project.

### Section 13

#### *Prohibition on the taking in execution of a sold share or a claim arising from a transaction*

A housing share sold by a founding shareholder cannot be taken in execution from said shareholder's debts even if a provision on the founding shareholder's reservation of title is in force.

A claim arising from a share transaction cannot be taken in execution from the founding shareholder's debt insofar as the housing company has a claim on the founding shareholder under the Limited-Liability Companies Act (734/78).

### Section 14

#### *A founding shareholder's bankruptcy*

If a founding shareholder is declared bankrupt, the estate shall notify the share buyers without undue delay whether the estate undertakes to fulfil the sale contracts for shares as not yet fulfilled by said shareholder.

If the estate does not undertake to fulfil the sale contracts for shares as referred to in paragraph 1 above, each share buyer shall be entitled to cancel his purchase.

Those share buyers who do not cancel their purchase under paragraph 2 above shall immediately acquire power of decision within the housing company by virtue of the shares they have purchased. This, however, shall not apply to other founding shareholders.

The share buyers referred to in paragraph 3 above shall pay for the shares they have purchased a sum equivalent to the value of the shares at the time the bankruptcy was declared. The founding shareholder's debt to the housing company under the Limited-Liability Companies Act, however, shall be deducted from such claim in proportion to the share purchase price. Share buyers whose share purchase payments exceed the sum denoted

above shall be entitled to have the difference refunded with interest accrued under chapter 4, section 36, paragraph 1.

## Section 15

### *Registration of legal transactions related to shares*

The founding shareholder shall notify the keeper of documents without delay of any sale contract for a housing share or any pledge of a share made by him, by submitting the original document or a certified copy thereof. The share buyer shall similarly notify the keeper of any contract reassigning or pledging the rights arising from the sale contract. The assignee or pledgee may also make the required notification to the keeper.

A lien on a share or on the rights arising from a contract for the assignment of a share shall arise upon notification of the pledge to the keeper of documents.

The keeper of documents shall keep a list containing the following entries for each share:

- 1) the name and address of the person to whom the founding shareholder has sold the share or to whom the rights derived from the contract have been transferred;
- 2) the name and address of the creditor to whom the share has been pledged; and
- 3) an entry stating whether the share has been taken in execution or placed under a provisional remedy as defined in chapter 7 of the Execution Act, and if so, the name of the creditor concerned and the executor who performed the action.

Without prejudice to confidentiality, information must be provided from the list to the share buyer or to anyone requiring information for the purpose of purchasing or pledging a share.

## Section 16

### *Liability of the keeper of documents*

The keeper of documents shall be liable for any loss caused by him in performing the duties laid down in this chapter, unless he can prove that he has taken the necessary precautions.

Any suit for damages against the keeper of documents shall be brought no later than three years after the claimant received notice of the loss.

## Section 17

### *Security for fulfilment of contracts on construction and housing share transactions*

Founding shareholders shall see to it that security is put up for the benefit of the housing company and the share buyers as prescribed in this section to ensure that the contract on construction or repair and the housing transaction contracts are fulfilled. The security shall consist of a bank deposit, a bank guarantee or appropriate insurance, and it shall also cover the company's financial standing in accordance with its financing plan.

The value of *security for the construction stage* at the time when the housing shares are first offered for sale shall be at least five per cent or, subject to decree, a larger proportion of the overall price specified in the construction or repair contract. The security for the construction stage shall always be equivalent to at least ten per cent or, subject to decree, a larger proportion of the total transaction prices of shares sold. The security shall remain in force until it is released; notwithstanding, it shall remain in force for at least three months after the building inspection authority has approved the building concerned for use.

When the security for the construction stage expires, *security after the construction stage* shall be put up. This security shall correspond to at least two per cent or, subject to decree, a larger proportion of the total transaction prices of shares sold. The security shall be in force until it is released; this notwithstanding, it shall remain in force at least 15 months after the building inspection authority approved the building concerned for use. The obligation to put up security referred to in this paragraph shall expire when 15 months have passed from the date on which the building inspection authority approved the building for use.

Insofar as security is not required to compensate for any loss caused to the company by non-fulfilment of a construction or repair contract, or by construction defects in parts of the building for the maintenance of which the company is responsible, the security shall remain in force to compensate for any loss caused to the share buyer by the founding shareholder's breach of contract. If the security is insufficient to cover the compensation payable to all share buyers, the value of the security shall be used primarily to cover expenses arising from the repair of defects in proportion to the cost of repairing them, and any remaining security shall be distributed as is reasonable taking into account the extent and type of loss sustained by each share buyer, and other considerations.

### Section 18

#### *Release of security*

Security can only be released if the board of the housing company and the share buyers

give their written consent thereto and, in the case of the release of a security referred to in section 17, paragraph 2, the keeper of documents is notified that the building inspection authority has approved the building concerned for use. The security shall be released if the housing company or share buyers have no reason to refuse to release it on the basis of the construction or repair contract or share transaction contracts.

If the company board has given the consent referred to in paragraph 1 above, the original security can be replaced with a security of the kind referred to in section 17, paragraph 2, corresponding to ten per cent or, in the case of a security of the kind referred to in section 17, paragraph 3, to two per cent of the total purchase price paid by the share buyers who withheld their consent, or to a higher proportion thereof as laid down by decree.

If consent to the release of security is withheld without due cause or if such consent cannot be obtained without undue inconvenience or delay, permission to release the security entirely or in part can be granted upon application by a court of justice.

A company or share buyer who withholds consent to the release of a security without due cause and against the recommendation of the Consumer Complaint Board can be required to pay the founding shareholder reasonable compensation for the resulting loss.

## Section 19

### *Security arrangements against a founding shareholder's insolvency*

The founding shareholder shall see to it that appropriate insurance is taken out or a bank guarantee is issued or some other guarantee fulfilling the conditions confirmed by the Ministry of the Environment is issued, as provided in this section, before the housing shares are offered for sale in order to protect the housing company and share buyers against his insolvency. The insurance or guarantee shall remain in force until ten years have passed as of the date when the building inspection authority approved the building concerned for use.

If a founding shareholder becomes insolvent, the issuer of the insurance or guarantee referred to in section 1 above shall be liable up to the maximum amount laid down by decree for compensating the housing company and share buyers for any necessary costs incurred in detecting a construction defect in the company's residential, storage or utility building and in repairing any damage caused thereby, provided that the founding shareholder is liable for said costs under this Act, the share sale contract or the construction or repair contract, and that other security put up on behalf of the housing company and the share buyers is insufficient to cover said costs.

## Section 20

### *Share buyers' meeting*

The board of the housing company shall convene a share buyers' meeting without delay as soon as assignment contracts have been made out for at least one fourth of the company's apartments. The share buyers' meeting shall be convened by registered letter sent to each share buyer or by some other certifiable means. At the share buyers' meeting, each block of shares conferring the title to one apartment confers one vote.

If the share buyers' meeting referred to above is not convened in the statutory order, the provincial government shall, upon application by the company's board member, auditor, shareholder or share buyer, authorize the applicant to convene the meeting at the company's expense.

## Section 21

### *Election of an auditor by the share buyers*

Without prejudice to the housing company's articles of association, the share buyers have the right to elect at the meeting referred to in section 20 an auditor for the housing company for a term extending from the end of the construction stage to the end of the following accounting period. The provisions concerning an auditor elected by the shareholders' meeting shall otherwise apply to an auditor elected by the share buyers. The housing company shall pay the auditor's fee, which can be entered in the company's expenditure irrespective of the financing plan.

The share buyers' meeting have the same right as the shareholders' meeting to obtain information from the auditor.

## Section 22

### *Construction observer*

The share buyers have the right, at the meeting referred to in section 20, to elect a construction observer, whose duties consist of overseeing that the company's building is completed in accordance with the construction contract. The observer's term of office shall extend to the end of the construction period, and his fee shall be paid by the housing company and entered in the company's expenditure irrespective of the financing plan.

The construction observer shall have the requisite professional qualifications for the

assignment, and he shall not be dependent on the builder or founding shareholders. The observer shall be entitled to obtain from the housing company and founding shareholders any information necessary for overseeing the progress of construction work, and to enter the construction site.

### Section 23

#### *Election of a new board and interim financial statements*

When the building inspection authority has approved a housing company's buildings for use, the company board shall convene a shareholders' meeting without undue delay, also inviting all share buyers to attend. Otherwise, the provisions of the Housing Companies Act concerning the convening of meetings shall be observed. The agenda of the shareholders' meeting shall include the following items:

- 1) presentation of the company's interim financial statements, a report on implementation of the financing plan, and the auditors' reports on these;
- 2) presentation of information on the technical implementation of the construction project;
- 3) election of the board and auditors for the remaining term of office.

For any share assigned by a founding shareholder, the buyer of the share shall exercise the shareholder's right to vote in the election of the board.

### Section 24

#### *Penalty provision*

If a founding shareholder assigns or pledges a share contrary to the provisions of section 11, paragraph 1 or 2, or if he neglects the notification duty laid down in section 15, he shall be sentenced to a fine or not more than one year of prison for *violation of the provisions protecting the share buyer*, unless more severe punishment is provided for such act elsewhere in the law.

- 1) Whosoever offers a housing share for purchase by a consumer before the safekeeping documents referred to in this chapter are deposited for safekeeping as provided in this chapter; or
- 2) an economic operator who offers a housing share for subscription by a consumer by marketing it to the public

shall also be sentenced for violation of the provisions protecting share buyers.

## Chapter 3

## **Down payment**

### Section 1

#### *Scope of application of this chapter*

The provisions of this chapter shall apply to an offer made by a consumer who:

- 1) has submitted a bid for an apartment on sale and paid the seller an agreed sum (*down payment*) as security for the bid; or
- 2) with the seller's consent, has reserved the right to purchase the apartment and has made a down payment to the seller as security therefor.

The Act on consumer protection in real estate transactions (686/88) contains provisions on the real estate agent's rights and responsibilities with respect to down payments.

### Section 2

#### *Peremptory nature of provisions*

If the seller is a founding shareholder or an economic operator, derogations to the provisions of this chapter cannot be made to the bidder's detriment.

Derogations from the maximum amount referred to in section 6, paragraph 1, of this chapter cannot be made to the bidder's detriment.

### Section 3

#### *Significance of the down payment*

If the transaction is concluded, the full amount of the down payment shall be considered to be part of the purchase price.

If the transaction is not concluded for a reason due to the bidder, the seller shall have the right to retain the down payment unless otherwise provided in section 6.

If the seller does not accept the bid or the transaction is not concluded for any reason not due to the bidder, the seller shall immediately refund the down payment he received. If, for reasons beyond the bidder's control, the seller refuses to conclude the transaction on the terms agreed by the seller or on behalf of the seller when the down payment was received, the seller shall refund the down payment and remit to the bidder as compensation a sum equivalent to the down payment, unless otherwise provided in section 6.

The opposing party to the party withdrawing from a transaction shall not be entitled to any redress other than that referred to in paragraph 2 or 3 above.

#### Section 4

##### *Prohibition on acceptance of a bill of exchange or other negotiable instrument as a down payment*

The bidder's bill of exchange shall not be accepted as a down payment, nor shall any other instrument be accepted if its assignment or pledging would restrict the bidder's right to raise objections on the basis of the bid referred to in section 1, paragraph 1, or on the basis of the contract, against a party who accepts the commitment in good faith.

The provisions of paragraph 1 above shall not apply to a bank draft.

Whosoever accepts a bill of exchange or negotiable instrument in violation of the provision in paragraph 1 cannot appeal to said bill or instrument. The debtor's right to raise objections against the assignee is laid down separately.

#### Section 5

##### *Prohibition against accepting simultaneous down payments*

After the seller has received a down payment, he shall not accept another down payment or bid for the same apartment before the first down payment has been refunded to the bidder or it is clear that the seller will retain it. If the seller has accepted more than one simultaneous down payments, the bids for which the down payments have been made shall not bind the bidders.

#### Section 6

##### *More detailed provisions and adjustment*

The maximum sum which can be forfeited by the bidder under section 3, paragraph 2, or which the seller may have to pay as compensation under section 3, paragraph 3, can be laid down by decree.

In individual cases, the sum referred to in paragraph 1 above can be adjusted if it would be otherwise unreasonable in view of the reasons for the failure to conclude the transaction, loss caused to the opposing party, or other considerations.

#### Chapter 4

## **Transactions involving new housing**

### *General provisions*

#### Section 1

##### *General scope of this chapter*

The provisions of this chapter shall apply when a founding shareholder sells a housing share at the construction stage or thereafter. The provisions of this chapter on transactions in housing shares shall also apply if, in the same context, a share is sold which confers possession of other facilities closely linked with housing, such as garages or storage facilities in residential buildings.

The provisions of this chapter shall also apply when an economic operator otherwise sells housing to be taken into use for the first time after new construction or renovation .

Provisions on application in certain cases of the provisions in chapter 6 concerning transactions involving used housing to transactions involving new housing are laid down in chapter 6, section 1, paragraph 2.

#### Section 2

##### *Peremptory nature of provisions*

Any contract clause derogating from the provisions of this chapter to the detriment of the consumer shall be null and void, unless otherwise provided below.

#### Section 3

##### *Obligation to put up security*

If a housing share from a company which has come under regulation in accordance with chapter 2 is sold, and less than one year has passed since the construction stage was completed, the seller shall put up security for fulfilment of the sale contract for the benefit of the buyer and the company, said security being equivalent to that laid down in chapter 2, section 17. No separate security need be provided, however, if the security put up under chapter 2, section 17, is sufficient to cover the transaction referred to in this section.

The provisions of chapter 2, section 17, shall apply correspondingly to the security referred to in paragraph 1 above. The security shall, however, remain in force for at least six months after the buyer has taken possession of the apartment. If the obligation to keep

the security in force terminates before this, under chapter 2, section 17, paragraph 3, the security shall be in force for the remaining period solely for the buyer's benefit.

Assignment of possession and documents, allocation of costs and liability for risk in transactions involving new housing

Section 4

*Assignment of possession of an apartment and surrender of the share certificate or other documents*

If no date has been agreed on for the assignment of possession of an apartment, assignment shall take place within a reasonable time after the transaction was concluded. In assessing what constitutes a reasonable time, the time normally required for completion of comparable housing and other considerations shall be taken into account.

Unless otherwise agreed, the seller shall not be obliged to surrender possession of the apartment before the purchase price has been paid or before the instalment referred to in section 29, paragraph 3, has been deposited as specified in said provision.

Chapter 2, section 6, contains provisions on the right of the buyer of a housing share to take possession of the share certificate from the keeper of documents after completion of the construction stage. In any other case, unless otherwise agreed, the seller shall surrender the documents constituting proof of title or possession at the same time as he surrenders possession of the apartment.

Section 5

*Housing-related expenses*

Unless otherwise agreed, the seller shall be liable for:

- 1) regular maintenance charges and other comparable fees payable to the housing corporation, applying to the time before the assignment of possession of the apartment;
- 2) any other expenses related to management, upkeep or improvement applying to the time before the assignment of possession of the apartment in the event that the expenses concerned are overheads based on use of a commodity, or arising before transfer of possession in the event that any other type of expense is concerned; and
- 3) any other fees charged on housing under public law, if the obligation to pay the fee arises before assignment of possession of the apartment.

Should the assignment of possession of the housing be delayed for reasons due to the

buyer, the buyer shall nonetheless be liable for the expenses referred to in paragraph 1 above as of the date on which the assignment should have taken place under the contract.

A new shareholder's liability to pay a maintenance charge to the housing company is laid down in the Housing Companies Act.

Provisions on the obligation, in the relationship between the parties to the transaction, to pay stamp duty on housing transactions are laid down in chapter 6, section 6.

## Section 6

### *Risk*

The seller shall bear the risk of destruction of or damage occurring to the apartment before the assignment of possession to the buyer for any reason beyond the buyer's control. If the assignment of possession is delayed for a reason due to the buyer, liability for the risk of destruction of or damage to the apartment for any reason beyond the seller's control shall rest with the buyer from the date on which the assignment of possession should have taken place, provided that the seller has fulfilled his obligations as required by the assignment of possession.

If liability for risk rests with the buyer and the apartment is destroyed or damaged for any reason beyond the seller's control, the buyer shall pay the transaction price nevertheless.

### Consequences of default in assignment of the object of a transaction involving new housing

## Section 7

### *Right to withhold payment*

If an instalment of the purchase price falls due under contract at any time before possession of the apartment has been assigned, and there is legitimate cause to suspect that assignment of possession will be delayed, the buyer shall have the right to withhold payment of said instalment until the seller has shown probable cause that he will be able to fulfil the contract on schedule or that the security put up for fulfilment of the contract is sufficient to safeguard the buyer's rights.

If possession of the apartment or any document referred to in section 4, paragraph 3, has not been assigned, on account of the seller's default, by the date on which an instalment of the transaction price falls due, the buyer shall have the right to withhold payment until the

apartment assignment takes place. The buyer shall also have the right to withhold payment thereafter of such portion of the purchase price as is necessary to provide security for any claim for loss based on the seller's default.

#### Section 8

##### *Cancellation of a transaction on account of the seller's default*

The buyer may cancel the transaction on account of the seller's default if the breach of contract is material.

If the buyer has set a fixed extension period for the seller for fulfilment of the contract and this extension is not unreasonably short, the buyer may likewise cancel the transaction if the seller does not fulfil the contract within the extension period. The buyer may cancel the transaction during the prescribed extension period only if the seller gives notice that he will not fulfil the contract within this period.

If the seller proves that his default was due to a hindrance to construction work beyond his control and that of the contractors performing the work and their suppliers, and said hindrance could not be reasonably foreseen on the date when the transaction was concluded, and that its consequences could not be reasonably avoided or overcome, the buyer may not cancel the contract unless the delay exceeds 60 days. The buyer may, however, cancel the transaction without prejudice to this paragraph if, by adhering to the contract, he would be placed in an unreasonable situation.

The buyer shall not cancel the transaction on account of the seller's default after the apartment and the documents referred to in section 4, paragraph 3, have been assigned to his possession.

#### Section 9

##### *Cancellation on the grounds of expected default*

If there are weighty reasons to expect a default justifying cancellation, the buyer may cancel the transaction even before the agreed date of assignment of the apartment.

#### Section 10

##### *Seller's inquiry in the event of default*

If the seller inquires if the buyer will accept fulfilment of the contract within a specified time despite default, and the buyer fails to respond in a reasonable time after having

received said inquiry, the buyer shall not cancel the transaction if the seller fulfils the contract within the time specified in the inquiry.

## Section 11

### *Compensation for loss arising from the seller's default*

The buyer shall be entitled to compensation for any loss sustained as a result of the seller's default, unless the seller proves that the default was due to a hindrance beyond his control which he could not have been reasonably expected to foresee on the date the transaction was concluded, and the consequences of which he could not reasonably have avoided or overcome.

If the default is due to the contractor or to some other person engaged by the seller or contractor to assist in fulfilment of the contract or part of it, or to a supplier of goods to said person, the seller shall be released from liability for compensation of loss only if said person would also be free from liability under paragraph 1 above.

Notwithstanding, the seller shall be liable for indirect loss sustained by the buyer only in the event that the default or loss was due to negligence on the seller's part. The following losses shall be considered indirect:

- 1) any loss of income caused to the buyer by a breach of contract or any consequent action; and
- 2) any significant loss of utility to the apartment which does not cause direct financial loss, and any other comparable significant loss.

Notwithstanding, any loss referred to in section 3, paragraphs 1-2, shall not be deemed an indirect loss insofar as it results from the containment of any other loss.

If the seller's performance is hindered for one of the reasons specified in paragraph 1 or 2 above, and the seller fails to notify the buyer immediately of the hindrance and its effect on fulfilment of the contract, the buyer shall be entitled to compensation for any loss which could have been avoided had he received timely notification.

A member of the buyer's family who sustains a loss as a result of default shall have the same right as the buyer to compensation for loss.

## Section 12

### *Significance of estimated date of completion*

If an estimated date of completion has been announced for housing, the provisions on default shall apply if the assignment of possession is delayed by more than 30 days from the estimated date. Notwithstanding, in applying the provisions of section 7, paragraph 2, on the buyer's right to withhold payment, the estimated date of completion shall be equated with the agreed assignment date.

The seller may appeal to the provision in paragraph 1 only if a clause to that effect has been included in the sale contract.

### Section 13 *Seller's bankruptcy*

If the seller is declared bankrupt before the end of the construction period, the provisions of chapter 2, section 14 shall apply.

If the seller is otherwise declared bankrupt before he has fulfilled the contract, the buyer can cancel the transaction, unless the bankrupt's estate notifies him without undue delay that it undertakes to conclude the transaction and puts up adequate security for fulfilment of the contract.

### Defects in new apartments

#### Section 14 *General provision on defects*

An apartment is defective if:

- 1) it does not meet the terms that can be considered to have been agreed;
- 2) it does not meet the requirements laid down in the provisions or regulations in force at the time of the transaction;
- 3) its properties are or can be justifiably assumed to be detrimental to health;
- 4) its construction or repair has not been carried out in accordance with good construction practice, or competently and with care;
- 5) a material used in construction or repair is not of normal good quality with respect to durability or other properties, unless its quality has been specifically agreed on;
- 6) the apartment otherwise fails to meet the buyer's reasonable general expectations in the light of transactions involving comparable housing.

#### Section 15 *Information concerning the apartment*

The apartment is also defective if:

- 1) it does not correspond to the information provided by the seller before the transaction, and such information can be assumed to have influenced the transaction;
- 2) the seller has neglected to provide the buyer, prior to the transaction, with information on any matter concerning the apartment which he should have provided under the decree (847/83) on information to be provided in marketing housing, and it can be assumed that such failure to provide information influenced the transaction;
- 3) the seller has otherwise failed to provide the buyer with any specific information concerning the apartment of which it must be assumed that he was aware and of which the buyer might reasonably expect to be informed, and it can be assumed that such failure to provide information influenced the transaction; or
- 4) the seller has not provided the buyer with the necessary specific information on the use or upkeep of the materials or equipment in the apartment or has provided incorrect or misleading information thereon.

The provisions on defects shall also apply subject to the stipulations in subparagraphs 1-3 of paragraph 1, if the seller has provided incorrect or misleading information concerning the surroundings of the apartment or on services in the area or has failed to provide information on any related matter affecting the use or value of the apartment.

The provisions on defects in paragraph 1 shall also apply if the seller has provided or neglected to provide information after the transaction but before the assignment of possession of the apartment, and this can be assumed to have influenced the buyer's decision.

The provisions of chapter 6, paragraph 27, shall apply similarly to the seller's liability for information which someone other than himself provided or failed to provide.

## Section 16

### *Pre-transaction inspection of the apartment*

The buyer shall not claim as a defect any matter of which it must be assumed that he was aware at the time of the transaction.

If the apartment was completed before the transaction was concluded, the provisions of chapter 6, sections 12 and 19, shall apply.

## Section 17

### *Time determining defectiveness, and significance of guarantee*

Any defects in an apartment shall be assessed on the basis of the quality of the apartment at the time when the risk passed to the buyer. The seller shall be liable for any defects existing at that time, even if the defect only appears later. If the apartment deteriorates after the risk has passed to the buyer, it shall be considered defective if such deterioration is due to the seller's breach of contract.

If, by issuing a guarantee or making a similar commitment, the seller has assumed liability for the viability or other quality of an apartment, a part of it, or equipment in it for a specified period, the apartment, part or equipment shall be considered defective if it deteriorates during that period in a way covered by the commitment. No liability for defectiveness shall arise, however, if the seller shows probable cause that the deterioration was due to accident, misuse of the apartment, its part or equipment in it, or to any other reason due to the buyer.

If the guarantee or other commitment referred to in paragraph 2 was issued or made by anyone other than the seller at an earlier level in the sales chain or on the seller's behalf, the apartment, its part or equipment belonging to it shall nonetheless be considered defective subject to the conditions stipulated in paragraph 2. The seller shall not, however, be liable for a defect on the grounds of a commitment made at an earlier level in the sales chain if he would not otherwise be liable for such defect under this Act, provided that the seller can prove that he clearly notified the buyer of this before the transaction.

#### Consequences of defects in new apartments

##### Section 18

##### *One-year inspection*

The seller shall arrange a one-year inspection to verify any defects which have appeared in the apartment. The inspection shall be carried out no sooner than 12 months and no later than 15 months after the date when the building inspection authority approved the building for use. The seller shall notify the buyer of the inspection date at least one month in advance.

The seller shall draw up minutes of the one-year inspection, recording in them any defects reported by the buyer and any defects detected in the course of the inspection. The buyer shall be provided with an opportunity to review the minutes and to submit additions or comments to them within a reasonable period of at least three weeks after receiving notice of the minutes.

Section 19  
*Reporting defects*

If the buyer has not reported a defect at the one-year inspection or otherwise before the deadline referred to in section 18, paragraph 2, although he should have detected the defect at the latest in the course of the inspection, he shall forfeit the right to appeal to said defect.

If a defect appears in the housing that the buyer could not be required to detect during or before the one-year inspection, he shall forfeit the right to appeal to said defect if he does not report the defect within a reasonable time after he detected or should have detected it.

The decisive criterion for determining when a defect was or should have been detected shall be the time when the buyer became or should have become aware of the significance of the defect.

Defects shall be reported to the seller or the person who is liable for repairing defects on the seller's behalf under the contract or any other commitment concerning construction or repair of the apartment.

Section 20  
*Derogations from the effect of failure to report a defect*

Without prejudice to the provisions in section 19, the buyer may appeal to a defect if:

- 1) the seller or anyone representing the seller has acted with gross negligence or contrary to the rule of good faith;
- 2) the defect consists of the failure of the apartment to fulfil the requirements on quality laid down in provisions or regulations issued to protect health or property;
- 3) the defect constitutes some other hazard to health or property due to the properties of the apartment.

Section 21  
*Right to withhold payment*

The buyer shall have the right to withhold payment of the outstanding portion of the transaction price on the grounds of a defect in the apartment. Notwithstanding, the buyer shall not withhold payment of a sum which obviously exceeds his claim on the grounds of the defect.

Section 22

### *Seller's responsibility to rectify a defect*

The buyer shall have the right to demand that a defect be repaired or otherwise rectified in such a way that he does not incur expenses. The seller shall have the right to reject such demand if the expense of rectification would be unreasonably high in view of the significance of the defect to the buyer.

If rectification of the defect would cause inconvenience to any other resident of the building, and such inconvenience is out of proportion to the significance of the defect to the buyer or owner of the building, rectification shall be subject to said resident's consent. If rectification of the defect would cause similar inconvenience in the shared-access facilities of the building, rectification shall be subject to the consent of the owner of the building.

The buyer shall forfeit his right to demand rectification of a defect if he defers submission of his claim for an unreasonably long time.

### Section 23

#### *Seller's right to rectify a defect*

Even if the buyer does not request rectification of a defect, the seller may perform such rectification at his own expense if he offers to do so immediately after the buyer has reported the defect. The buyer may refuse rectification if it would cause him significant inconvenience, reduce the value of the apartment or entail the risk that he would not be compensated for the resulting expense, or for some other specific reason.

The seller shall not appeal to his lack of opportunity to rectify the defect as referred to in paragraph 1, if the buyer has had the defect rectified and, under the circumstances, the buyer could not be reasonably required to wait for the seller to rectify the defect.

### Section 24

#### *Time of rectification*

The defect shall be rectified within a reasonable time after it was reported by the buyer. The repair of a defect detected before the one-year inspection can, however, be deferred to a time immediately following the one-year inspection if the inconvenience caused to the buyer by the deferral is minor, and there is no other special reason for commencing repair earlier.

The buyer can set a reasonable deadline by which the seller shall commence rectification

of the defect. If the defect is such that the seller has the right under paragraph 1 to defer repairing it until after the one-year inspection, the earliest time at which the buyer can set the deadline is the time of the inspection or the last date by which the inspection should have been held.

If the seller does not take effective action to rectify the defect by the deadline set in accordance with paragraph 2, although he is liable for its repair, the buyer shall have the right to have the defect rectified by another party and to claim compensation under section 26.

## Section 25

### *Reduction in price and cancellation of transaction on the grounds of a defect*

If rectification of the defect is out of the question, if rectification is not performed, or if there is strong cause to suspect that rectification will not be performed within the time required under section 24, the buyer can:

- 1) claim a price reduction corresponding to or otherwise in reasonable proportion to the defect; or
- 2) if the breach of contract is material, cancel the transaction.

The buyer shall forfeit the right to cancel the transaction on the grounds of a defect if he defers notification of cancellation for an unreasonably long time, and the circumstances are not those referred to in section 20.

## Section 26

### *Compensation for a defect*

The buyer shall be entitled to compensation for loss sustained by him on account of a defect in the apartment. The seller, however, shall be liable for any indirect loss referred to in section 11, paragraph 3, above only if the defect or loss was due to negligence on his part.

The right to compensation under this section shall also cover any bodily injury or material loss caused to the buyer by the defect. Notwithstanding, the seller shall not be liable under this section for:

- 1) bodily injury caused by a defect in a material used in construction or repair, in any other constituent of the building or in any equipment that is a fixture in the apartment, unless said injury was caused by negligence on the seller's part;
- 2) material loss caused by a defect in a material used in construction or repair or in any other constituent of the building, if the loss applies to property other than the apartment or

to movable property in the apartment and primarily in private use, and the loss was not caused by negligence on the seller's part; or

3) material loss caused by a defect in any equipment that is a fixture in the apartment, if the loss applies to property the use of which is not directly connected with the equipment, and the loss was not due to negligence on the seller's part.

If any party other than the seller has committed himself to rectifying a defect in the apartment or has otherwise assumed liability for the quality of the apartment or its equipment on the seller's behalf, the party that made the commitment shall be liable for compensating the buyer for any loss caused by non-fulfilment of said commitment on the grounds laid down in this section.

A member of the buyer's family who sustains a loss on account of a defect, or any other resident who sustains a loss on account of a defect or its rectification, shall have the same right to compensation as the buyer.

#### Other irregularities in transactions involving new housing

##### Section 27

##### *Financial irregularity*

A transaction is financially irregular if, before the transaction was concluded, the seller:

1) provided the buyer with incorrect or misleading information about the financial obligations or liabilities associated with ownership or use of the apartment concerned, such as the maintenance charge or that part of the housing company's debt which encumbers the shares sold, or about the financial standing of the housing corporation, and it can be assumed that said information influenced the transaction;

2) failed to provide the buyer with information concerning any matter referred to in subparagraph 1 which he was liable to provide under the decree on information to be provided in marketing housing, and it can be assumed that said failure influenced the transaction; or

3) otherwise failed to provide the buyer with information concerning any matter referred to in subparagraph 1, if it must be assumed that he was aware of the matter and the buyer might legitimately expect to be informed thereof, and it can be assumed that said failure influenced the transaction.

A transaction is also financially irregular if the financial standing of a housing company to which the provisions of chapter 2 of this Act apply is inferior at the end of the construction stage to that stipulated in the current financing plan.

If the transaction is financially irregular, the provisions of section 19, paragraph 3, and sections 21, 25 and 26 shall apply. The buyer shall not claim financial irregularity unless he notifies the seller of the irregularity within a reasonable time after he detected or should have detected the irregularity. Notwithstanding, the buyer's failure to notify shall not have this effect if the seller or his representative has acted with gross negligence or contrary to the rule of good faith.

## Section 28

### *Legal irregularity*

A transaction is legally irregular if a third party owns the object of the transaction or part thereof or if a third party has a lien or other title thereto, and it does not follow from the contract that the buyer must accept the restrictions imposed on the object of the transaction by the third party's title. The buyer can also demand that action be taken on account of legal irregularity if a third party claims the title referred to above with probable justification.

The buyer shall not appeal to legal irregularity unless he has notified the seller thereof within a reasonable time after he detected or should have detected the irregularity. If, however, the seller or his representative has acted with gross negligence or contrary to the rule of good faith, the buyer's failure to report the irregularity shall not have this effect. The provisions of section 19, paragraph 3, and section 21 shall also apply if the object of the transaction is legally irregular.

If the seller does not see to it immediately that the third party's title expires or the irregularity is otherwise rectified, the buyer shall have the right to cancel the transaction or, if the irregularity is not significant, to demand a corresponding price reduction.

If a legal irregularity existed at the time of the transaction, the buyer shall be entitled to compensation for loss if he was not, and could not be expected to be, aware of the irregularity. If an irregularity arose after the transaction was concluded, the buyer shall be entitled to compensation for loss unless the seller proves that the irregularity or loss was not caused by his actions.

### Buyer's responsibilities for and consequences of buyer's breach of contract in transactions involving new apartments

## Section 29

*Date of payment of the transaction price and validity of provisions on the reservation of*

### *title*

Unless otherwise agreed, the buyer shall pay the transaction price on the date that the apartment and the share certificate or other document constituting proof of title or possession are assigned to him. The charge for any additional work or alterations not included in the transaction price shall be paid when the work in question is completed.

If it has been agreed that some part of the transaction price will fall due before the assignment of possession of the apartment, the advance instalments on the transaction price shall not be so large as to be disproportionate to the value of the seller's performance at the time the instalments fall due.

At least 10 per cent of the transaction price shall not fall due until the buyer has had reasonable opportunity to inspect the apartment and possession of the apartment has been assigned to him. No less than two per cent of the total transaction price agreed by the parties shall be paid in the form of a deposit for the seller's benefit in a bank designated by the seller. The seller may withdraw the deposited amount and any interest accrued on it at the earliest after one month has elapsed from the date when possession of the apartment was assigned to the buyer, unless the buyer applies his right to withhold payment under section 21 and forbids the bank to release the deposit or part thereof to the seller.

Any contract clause under which the seller reserves the title to the object of the transaction in order to secure his claim on the transaction price or receives a lien thereon as security for his claim on the transaction price shall cease to be valid when the buyer deposits that part of the transaction price referred to in paragraph 3 in a bank, and pays the balance to the seller.

### Section 30

#### *Nullity of stipulations increasing the transaction price*

If the transaction involves the shares of a company referred to in chapter 2, section 1, any term under which the seller has the right under certain circumstances to increase the agreed transaction price shall be null and void. Provisions on amending the company's financing plan are laid down in chapter 2, sections 8 and 9.

### Section 31

#### *Specification of details in an apartment*

If, under the contract, the buyer is to specify any detail in the apartment or its equipment,

but fails to do so by the agreed date or within a reasonable time after being requested to do so by the seller, the seller may specify such details in accordance to what may be assumed to be in the buyer's interest.

The seller shall notify the buyer of any specification he has made and set a reasonable deadline for the buyer to alter the specification. If the buyer, having received the specification, does not alter it within the stipulated deadline, the specification shall be binding.

### Section 32

#### *Withdrawal from transactions*

If the buyer commits a breach of contract by withdrawing from the transaction before possession of the apartment has been assigned to him, the seller shall be entitled to compensation for the loss thereby incurred, as provided in section 35.

### Section 33

#### *Penalty interest*

If the buyer fails to pay any instalment of the transaction price by the due date, and the transaction is not withdrawn from or cancelled, the seller shall be entitled to penalty interest as laid down in the Interest Act (633/82).

### Section 34

#### *Seller's right to cancel the transaction*

The seller may cancel the transaction on account of the buyer's default if the breach of contract is material.

If the seller has specified a grace period for the buyer to remit payment, and said grace period is not unreasonably brief, the seller may likewise cancel the transaction if payment is not remitted within the grace period. The seller may only cancel the transaction during the grace period if the buyer notifies him that he will not receive payment before the end of that period.

The seller shall not cancel a transaction on account of the buyer's default after the share certificate or other documents constituting proof of title or possession have been assigned to the buyer, nor after possession of the apartment has been assigned to the buyer, unless otherwise provided in the provision on reservation of title.

The seller shall not cancel the transaction on account of the buyer's default after the defaulted payment has been remitted with accrued interest.

### Section 35

#### *Seller's right to compensation for loss*

If the seller cancels the transaction on account of the buyer's default or if the buyer withdraws from the transaction in accordance with section 32, the seller shall be entitled to compensation for costs incurred from the resale of the apartment and for any special expenses incurred in drawing up and fulfilling the terms of a contract, and from which he is not otherwise likely to gain any benefit. The seller shall be entitled to compensation for any other loss, provided that such compensation is reasonable when the agreed price, the time of cancellation of or withdrawal from the contract, and other considerations are taken into account.

Notwithstanding, the seller shall not be entitled to compensation for loss if the buyer's default or withdrawal from the transaction is due to a legal provision, disruption of public transport or payment transactions, or any other similar impediment which the buyer could not reasonably avoid or overcome.

A contract under which the compensation to be paid by the buyer is determined schematically as a specific proportion of the transaction price or on the basis of some other standard criterion shall be valid if the compensation payable under the contract is reasonable when the loss normally caused by cancellation of or withdrawal from a contract and the provisions of this section are taken into consideration.

Provisions on adjustment of compensation for loss are laid down in section 38.

#### Other provisions on transactions involving new apartments

### Section 36

#### *Supplementary provisions on cancellation of transactions*

If the transaction is cancelled or the buyer withdraws from the transaction, the seller shall refund any part of the transaction price paid. If the buyer cancels the transaction on the grounds of the seller's breach of contract, the seller shall pay interest on the refunded transaction price as of the date on which he received payment in accordance with the interest rate referred to in section 3, paragraph 2 of the Interest Act. If possession of the apartment or the documents referred to in section 4, paragraph 3, of this chapter has been assigned to

the buyer, he shall return them to the seller.

If the buyer cancels the transaction after possession of the apartment has been assigned to him, and he can be considered to have derived significant benefit from its use, he shall pay the seller reasonable compensation therefor. In determining this compensation, any inconvenience caused to the buyer by the breach of contract constituting grounds for cancellation, and other considerations, shall be taken into account.

If the buyer has made any necessary or useful investments in the apartment, the seller shall pay the buyer reasonable compensation therefor when the contract is cancelled.

### Section 37

#### *Deterioration in the condition of an apartment, and buyer's right to cancellation*

If the condition of the apartment, while in the buyer's possession, deteriorates to an extent that can be considered to exceed ordinary wear and tear, or if the apartment sustains damage during this period as a result of the buyer's negligence, the buyer shall not cancel the transaction unless he compensates the seller for the resulting depreciation.

### Section 38

#### *Adjustment of compensation for loss*

Compensation payable on the grounds of a breach of contract can be adjusted if it is unreasonable in view of the reason for the breach of contract, any contributory action by the opposing party, the financial position of the contracting parties, the transaction price of the apartment, the opportunity for the party causing the loss to anticipate and prevent the loss, and other considerations.

The compensation payable by the buyer under section 35 can be adjusted, in particular if the default in payment or withdrawal from the transaction is due to the buyer's financial difficulties owing to illness, unemployment or some other reason that is primarily no fault of his own.

### Section 39

#### *Right of the housing corporation to require rectification on behalf of the buyer*

The housing corporation owning the building in which the apartment is located shall have the right to require the seller to rectify a defect on behalf of the buyer as provided in section 22. Notwithstanding, the buyer can forbid the housing corporation to act on his behalf

as referred to above.

#### Section 40

##### *Period for bringing suit for compensation in certain cases*

A suit based on the provisions of this chapter and concerning:

1) material loss to the apartment or to movable property in the apartment and primarily in private use, caused by a defect in a material used in construction or repair or in any other constituent of the building; or

2) material loss to property the use of which is directly linked to any equipment which is a fixture in the apartment, caused by a defect in said equipment,

shall be filed within three years of the date when the claimant received notice of the occurrence of loss and of the person liable. Notwithstanding the above, the suit shall be filed within ten years after the material, constituent or equipment was issued by the party liable for compensation.

#### Section 41

##### *Effect on other provisions on compensation for loss*

The provisions of this chapter shall not restrict the right of the injured party to claim compensation under the Damages Act (412/74), the Product Liability Act (694/90) or other law.

### Chapter 5

#### **Other provisions on the liability of the original seller and suppliers of equipment**

#### Section 1

##### *Right of the housing corporation to appeal to a building contract*

The housing corporation shall have the right to appeal to the contents of a contract on construction or repair, even if it is not a party to said contract and its governing body approved a derogation from the contract to the housing corporation's detriment before responsibility for administration of the corporation was transferred to buyers who purchased an interest in the corporation.

#### Section 2

##### *Right to compensation under provisions of corporate law*

The right of the housing corporation and its shareholders or members to claim compensation under provisions of corporate law shall not be precluded by the fact that approval was given to the procedure constituting grounds for the claim by the management of the corporation prior to the transfer of the administration of the corporation to the purchasers of an interest therein, or by the fact that release from liability for such procedure was granted prior to said transfer of administration by the governing body of the corporation.

### Section 3

#### *Original seller's liability for defects in the apartment*

The buyer of an apartment shall have the right to appeal to the provisions of chapter 4 concerning defects in an apartment against the seller of the apartment referred to in chapter 4, section 1 (*original seller*), even if the buyer has purchased the apartment from a third party.

Notwithstanding the above, the buyer shall not have said right:

- 1) for any defect that arose from the fault of a party other than the original seller after he surrendered the apartment;
- 2) insofar as the original seller of the apartment compensated a previous owner of the apartment for the defect;
- 3) if a previous owner of the apartment is barred by chapter 4, sections 19 and 20, from appealing to the defect as a result of failure to report it; or
- 4) insofar as the claim applies to a price reduction or refund of the transaction price and exceeds the claim which the other party to the contract for the original sale of the apartment could have made on the same grounds.

### Section 4

#### *Reporting a defect*

The buyer shall forfeit the right to make a claim under section 3 if he does not notify the original seller of the apartment of the defect within a reasonable time after he detected or should have detected the defect, and received the information on the original seller needed to file a claim.

Without prejudice to paragraph 1 above, the buyer can appeal to a defect if:

- 1) the original seller of the apartment, against whom the claim is directed, has acted with gross negligence or contrary to the rule of good faith;
- 2) the defect consists of the failure of the apartment to fulfil the requirements on quality laid down in provisions and regulations issued to protect health or property;

3) the defect constitutes some other hazard to health or property caused by the quality of the apartment.

#### Section 5

##### *Validity of security for the benefit of a later buyer*

The security required under chapter 2, section 17 or 19, or chapter 4, section 3, shall remain in force for the benefit of any buyer who has purchased the apartment from a third party while security in accordance with the provisions above was in force.

#### Section 6

##### *Equipment supplier's liability to the apartment buyer*

If any equipment belonging to an apartment is defective, the buyer of the apartment shall have the right under chapter 5, section 31, of the Consumer Protection Act (16/94) to press a claim against an economic operator who has surrendered the equipment for resale or housing production at an earlier level in the sales chain.

Notwithstanding the above, the buyer of the apartment shall not have the right referred to in section 1 if a previous owner of the apartment could not appeal to the defect on account of failure to report it. A later buyer's right to appeal to the defect shall not, however, be restricted by the original seller's negligence.

#### Section 7

##### *Peremptory nature of the provisions in this chapter*

Any contract clause restricting the rights of the housing corporation or the consumer under this chapter shall be null and void.

### Chapter 6

#### **Transactions involving used apartments**

##### *General provisions*

#### Section 1

##### *Scope of application of this chapter*

The provisions of this chapter shall apply to the relationship between the seller and buyer

in the sale of a used apartment.

The provisions of this chapter shall also apply if anyone other than an economic operator sells an apartment to be taken into use for the first time after new construction or repair.

Provisions on the right of the buyer of a used apartment to press claims against the original seller of the apartment on the grounds of a defect in the apartment are laid down in chapter 5.

## Section 2

### *Possibility of contract clauses derogating from the provisions of this chapter*

If the seller is an economic operator and the buyer is a consumer, any contract clause derogating from the provisions of this chapter to the detriment of the buyer shall be null and void unless otherwise provided below.

If the seller is someone other than an economic operator, derogations from the provisions of this chapter are possible by written contract. Notwithstanding, if the buyer is a consumer:

- 1) the buyer's position cannot be weakened from that laid down in sections 8-10 and 25; and
- 2) the rights of the buyer under sections 14-17, 20 and 21 can only be restricted with respect to matters specified in the contract.

## Section 3

### *Inclusion of appurtenances in the transaction*

Any equipment or other objects belonging to the usual appurtenances of the apartment, and located in the apartment at the time when it was shown to the buyer, shall be included in the transaction, unless otherwise agreed.

### Assignment of possession and documents, allocation of costs and liability for risk in transactions involving used apartments

## Section 4

### *Assignment of possession of the apartment and surrender of the share certificate or other documents*

The seller shall surrender possession of the apartment and the share certificate or other

documents constituting proof of title or possession to the buyer on the agreed date. Unless otherwise agreed, the documents referred to above shall be surrendered at the same time as possession of the apartment.

Notwithstanding, the seller shall not be obliged to surrender possession of the apartment or the documents referred to in paragraph 1 before the buyer pays the purchase price, unless it has been agreed that the purchase price or its part will fall due later.

## Section 5

### *Housing-related expenses*

Unless otherwise agreed, the seller shall be liable for:

- 1) regular maintenance charges and other comparable fees payable to the housing corporation, applying to the time before the assignment of possession of the apartment;
- 2) any other expenses related to management, upkeep or improvement applying to the time before the assignment of possession of the apartment in the event that the expenses concerned are overheads based on use of a commodity, or arising before transfer of possession in the event that any other type of expense is concerned; and
- 3) any fees under public law, if the obligation to pay the fee arises before the assignment of possession of the housing.

Notwithstanding, should the assignment of possession of the apartment be delayed for reasons due to the buyer, the buyer shall be liable for the expenses referred to in paragraph 1 above as of the date when the assignment should have taken place under the contract.

If the apartment was already in the buyer's possession at the time of the transaction, liability for the expenses referred to in this section shall pass to the buyer from the time when the transaction is concluded, unless otherwise agreed.

A new shareholder's liability to pay the maintenance charge to the housing company is laid down in the Housing Companies Act.

## Section 6

### *Payment of stamp duty*

Unless otherwise agreed, in the relationship between the parties to the transaction the buyer shall be liable for payment of any stamp duty arising from the transaction.

The State's right to charge stamp duty from the parties to a transaction is laid down in the

Stamp Duty Act (662/43).

## Section 7

### *Risk*

The seller shall bear the risk of destruction of or damage occurring to the apartment before the assignment of possession to the buyer for any reason beyond the buyer's control. If the assignment of possession is delayed for a reason due to the buyer, liability for the risk of destruction of or damage to the apartment for any reason beyond the seller's control shall rest with the buyer from the date on which the assignment of possession should have taken place.

If the apartment is already in the buyer's possession at the time of the transaction, liability for risk to the apartment shall pass to the buyer from the time when the transaction is concluded.

If the buyer is liable for risk and the apartment is destroyed or damaged for any reason beyond the seller's control, the buyer shall pay the transaction price nevertheless.

### Consequences of default in the assignment of the object of a transaction involving a used apartment

## Section 8

### *Right to withhold payment*

If possession of the apartment or the share certificate or any other document constituting proof of title or possession has not been assigned, on account of the seller's default, by the date when the transaction price or an instalment thereon falls due, the buyer shall have the right to withhold payment until assignment takes place. The buyer shall also have the right to withhold payment thereafter of such portion of the purchase price as is necessary to provide security for any claim based on the seller's default.

If any portion of the transaction price falls due under the contract at any time before possession of the apartment or the documents referred to in paragraph 1 have been assigned, and there is legitimate cause to suspect that assignment of possession will be delayed, the buyer shall have the right to withhold payment of the transaction price until the seller shows probable cause that he will be able to fulfil the contract on schedule.

## Section 9

### *Cancellation of the transaction and compensation for loss*

If the seller does not surrender possession of the apartment or the documents referred to in section 4, paragraph 1, on schedule, the buyer shall have the right to:

- 1) cancel the transaction if the default causes him significant inconvenience, and cancellation cannot be considered unreasonable; and
- 2) receive compensation for loss, unless the seller can prove that the default or loss was not due to negligence on his part.

Notwithstanding, if the seller is an economic operator, the buyer shall have the right to cancel the transaction and to receive compensation for loss under the provisions of chapter 4, sections 8 and 11.

The buyer shall not cancel the transaction on account of the seller's default after possession of the apartment and the documents referred to in section 4, paragraph 1, have been assigned.

#### Section 10

##### *Cancellation on the grounds of expected default*

If there are weighty reasons to expect a default entitling the buyer to cancel the transaction, the buyer may do so even before the agreed date of fulfilment of the contract.

#### Defects in used apartments

#### Section 11

##### *General provision on defects*

An apartment is defective if:

- 1) it does not meet the terms that can be considered to have been agreed;
- 2) it does not correspond to the information provided by the seller on the apartment before the transaction, and such information can be considered to have influenced the transaction;
- 3) before the transaction, the seller has failed to inform the buyer of any specific matter concerning the apartment of which it must be assumed that he was aware and of which the buyer might reasonably expect to be informed, taking into account the likelihood that he would detect the matter concerned during the inspection of the apartment referred to in section 12, the seller's awareness of any special requirements made by the buyer, and other considerations, and it can be assumed that the failure to provide information influenced the

transaction;

4) it is significantly inferior in terms of amenities, condition or other properties to what the buyer had reasonable grounds to expect in view of the price and age of the apartment, the standard of amenities usual in the area, general requirements concerning reasonable housing standards, and other considerations.

The provisions on defects shall also apply subject to the stipulations in paragraph 1, subparagraphs 2 and 3, if the seller has provided incorrect or misleading information on the surroundings of the apartment or on services in the area, or has failed to provide information on any related matter affecting the use or value of the apartment.

The apartment is also defective if the seller is an economic operator, and he failed to inform the buyer of any matter concerning the housing that he was liable to provide under the decree on information to be provided in marketing housing, and said failure can be assumed to have influenced the transaction.

## Section 12

### *Pre-transaction inspection of the apartment*

The buyer shall not claim as a defect any matter of which it must be assumed that he was aware at the time of the transaction.

If the buyer has inspected the apartment before the transaction or, for no valid reason, has failed to make use of an opportunity provided by the seller to inspect the apartment, he shall not claim as a defect any matter that he should have detected in the course of the inspection.

The buyer shall not be obliged to verify the correctness of information provided by the seller on the apartment or to extend his inspection of the apartment to matters requiring special technical measures or other extraordinary arrangements, unless requested to do so by the seller or there is some other special reason to do so.

The provisions of paragraphs 1 and 2 shall not apply if it cannot be assumed that the buyer understood the significance of such matters at the time of the transaction or if he had reason to assume that the matter would be rectified before assignment of the apartment. Furthermore, said provisions shall not apply if the seller has acted with gross negligence or contrary to the rule of good faith, or if otherwise provided in section 19 of this chapter.

## Section 13

### *Time for establishing defectiveness*

The provisions in chapter 4, section 17, on the time for establishing defectiveness shall also apply to the assessment of defects under the provisions of this chapter.

### Consequences of defects in used apartments

#### Section 14

##### *Reporting defects*

The buyer shall not appeal to a defect if he has not reported the defect to the seller within a reasonable time after he detected or should have detected it. The decisive criterion for determining when a defect was or should have been detected shall be the time when the buyer became or should have become aware of the significance of the defect.

If the buyer fails to report a defect to the seller within two years after possession of the apartment has been assigned to him, he shall forfeit his right to appeal to the defect. The provisions of this paragraph shall not apply if the seller is an economic operator.

Without prejudice to the provisions in paragraphs 1 and 2, the buyer can appeal to a defect if the seller has acted with gross negligence or contrary to the rule of good faith.

#### Section 15

##### *Right to withhold payment*

The buyer shall have the right to withhold payment of the outstanding portion of the transaction price on the grounds of a defect in the apartment. Notwithstanding, the buyer shall not withhold payment of a sum which obviously exceeds his legitimate claim on the grounds of the defect.

#### Section 16

##### *Price reduction and cancellation of transaction on the grounds of a defect*

The buyer shall be entitled to a price reduction corresponding to the defect or otherwise reasonable in view of the defect.

The buyer shall be entitled to cancel the transaction if the defect causes him significant inconvenience and no other redress can be considered reasonable.

The buyer shall forfeit the right to cancel the transaction on the grounds of a defect if he fails to notify the seller of the cancellation within a reasonable time after it has become obvious that legitimate grounds for cancellation exist. Notwithstanding, the buyer's failure to notify shall not have this effect if the seller has acted with gross negligence or contrary to the rule of good faith.

If the seller is an economic operator, the buyer shall have the right to cancel the transaction under the provisions of chapter 4, section 25.

#### Section 17 *Compensation for a defect*

The buyer shall be entitled to compensation for loss sustained by him on account of a defect in the apartment, unless the seller proves that the defect was not due to negligence on his part.

If the seller is an economic operator, the buyer shall be entitled to compensation for loss on the grounds laid down in chapter 4, section 26, paragraphs 1 and 2.

#### Section 18 *The economic operator's liability with respect to repairs and improvements carried out in the apartment*

If the seller is an economic operator and has had repairs or improvements carried out in the apartment before the transaction, the provisions of chapter 8 of the Consumer Protection Act concerning the supplier's liability for performance to the customer shall apply to the seller's liability to the buyer with respect to repairs and improvements.

#### Section 19 *The buyer's position in the event of both parties' negligence*

If the buyer appeals to a matter in respect of which the seller has failed to fulfil the obligation to serve notice referred to in section 11, and the buyer, on his part, has been guilty of negligence or other carelessness in the apartment inspection referred to in section 12, the buyer can claim a reasonable price reduction without prejudice to the provisions of section 12.

#### Other irregularities in transactions involving used apartments

Section 20  
*Financial irregularity*

A transaction is financially irregular if, before the transaction was concluded, the seller:

- 1) provided the buyer with incorrect or misleading information about the financial obligations or liabilities associated with ownership or use of the apartment concerned, such as the maintenance charge or that part of the housing company's debt which encumbers the shares sold, or about the financial standing of the housing corporation, and it can be assumed that said information influenced the transaction;
- 2) failed to provide the buyer with information concerning any matter referred to in subparagraph 1 of which it must be assumed that he was aware and of which the buyer might reasonably expect to be informed, considering the likelihood that the matter would come to his notice as a result of the usual pre-transaction inquiries, and said failure can be assumed to have influenced the transaction.

A transaction is always financially irregular, without prejudice to the provisions of paragraph 1, subparagraph 2, if the seller is an economic operator, and has failed to provide the buyer with information on any matter referred to in paragraph 1, subparagraph 1, which he would have been liable to provide under the decree on the information to be provided in marketing housing, and it can be assumed that the failure to provide information influenced the transaction.

The provisions on defects in this chapter shall apply to any financially irregular transactions.

Section 21  
*Legal irregularity*

A transaction is legally irregular if a third party owns the object of the transaction or part thereof or if a third party has a lien or other title thereto, and it does not follow from the contract that the buyer must accept the object of the transaction with the restrictions imposed by the third party's title. The buyer can also apply for redress for legal irregularity if a third party claims the title referred to above with probable justification.

If the seller does not see to it without delay that the third party's title expires, the buyer shall have the right to cancel the transaction or, if the irregularity is not significant, to demand a corresponding price reduction. The provisions of section 14, paragraphs 1 and 3, on reporting defects, and the provisions of section 15 on the right to withhold payment, shall also apply if the object of the transaction is legally irregular.

If a legal irregularity existed at the time of the transaction, the buyer shall be entitled to compensation for loss if he was not, and could not be expected to be, aware of the irregularity. If an irregularity arose after the transaction was concluded, the buyer shall be entitled to compensation for loss, unless the seller proves that the irregularity or loss was not caused by his actions.

Buyer's responsibilities and consequences of buyer's breach of contract in transactions  
involving used apartments

Section 22

*Payment of the transaction price*

Unless otherwise agreed, the buyer, having had reasonable opportunity to inspect the apartment and the share certificate or other documents constituting proof of title or possession, shall pay the transaction price at the same time as possession of the apartment and the share certificate are assigned to him.

Section 23

*Penalty interest*

If the buyer fails to pay the transaction price or any instalment thereon by the due date, the seller shall be entitled to penalty interest as laid down in the Interest Act.

Section 24

*Seller's right to cancel the transaction*

The seller may cancel the transaction on account of the buyer's default if the breach of contract is material.

If the seller has specified a grace period for the buyer to remit payment, and said grace period is not unreasonably brief, the seller may likewise cancel the transaction if payment is not remitted within the grace period. The seller may only cancel the transaction during the grace period if the buyer serves notice that he will not remit payment during said period.

The seller shall not cancel the transaction on account of the buyer's default after the share certificate or other documents constituting proof of title or possession have been assigned to the buyer.

The seller shall not cancel the transaction on account of the buyer's default after the defaulted payment has been remitted with accrued interest.

#### Section 25

##### *Seller's right to compensation for loss*

The seller shall be entitled to compensation for any loss sustained by him as a result of the buyer's default, unless the buyer can prove that the default was due to a legal provision, a disruption in public transport or payment transactions, or some similar impediment which the buyer could not reasonably avoid or overcome.

If the seller is an economic operator and the buyer is a consumer, the provisions of chapter 4, section 35, paragraphs 1 and 2, shall apply to the buyer's liability for compensation.

#### Section 26

##### *Withdrawal from transactions*

If the seller is an economic operator and the buyer is a consumer, the provisions of chapter 4, section 32, on withdrawal from transactions shall apply. The buyer's liability for compensation on the grounds of withdrawal shall then be determined in accordance with chapter 4, section 35, paragraphs 1 and 2.

#### Other provisions on transactions involving used apartments

#### Section 27

##### *Information provided by a party other than the seller*

The provisions on the seller's liability for information provided or not provided before the transaction shall also apply if a real estate agent or some other seller's representative authorized to act on behalf of the seller provided or failed to provide information, or if information provided by the seller or his representative was contained in the superintendent's certificate or otherwise stemmed from a representative of the corporation the shares or other interest in which were the object of the transaction.

The real estate agent's liability for compensation is laid down in the Act on consumer protection in real estate transactions.

The liability for compensation of a corporation or its representative, as referred to in paragraph 1 above, is laid down in chapter 7.

## Section 28

### *Supplementary provisions on cancellation of transactions*

If a transaction is cancelled, the seller shall refund the transaction price received, and pay interest thereon as of the date when he received payment, at the rate specified in section 3, paragraph 2, of the Interest Act. If the buyer has taken possession of the apartment or the documents referred to in section 4, paragraph 1 of this chapter, he shall return them to the seller.

If the transaction is cancelled after possession of the apartment was assigned to the buyer, and the buyer can be considered to have derived significant benefit from use of the apartment, he shall pay the seller reasonable compensation therefor. In determining the compensation payable by the buyer for cancelling the transaction, any inconvenience caused to the buyer by the breach of contract constituting grounds for cancellation, and other considerations, shall be taken into account.

If the buyer has made any necessary or useful investments in the apartment, the seller shall pay the buyer reasonable compensation therefor in conjunction with cancellation of the transaction.

If the condition of the apartment, while in the buyer's possession, deteriorates to an extent that can be considered to exceed ordinary wear and tear, or if the apartment sustains damage during this period as a result of the buyer's negligence, the buyer shall not cancel the transaction unless he compensates the seller for the resulting depreciation.

## Section 29

### *Adjustment of compensation for loss*

The provisions of chapter 4, section 38, on adjustment of compensation for loss shall also apply to compensation for loss under the provisions of this chapter.

## Chapter 7

### **Miscellaneous provisions**

#### *Seller's right of recovery*

## Section 1

*Right of recovery on the basis of information provided by a representative of the housing*

## *corporation*

If the seller of the apartment is liable for a defect on the basis of information contained in the superintendent's certificate presented by the seller to the buyer or otherwise stemming from a representative of the housing corporation to the shares or interest in which the transaction applies, the seller shall be entitled to compensation for his loss from said corporation or person, unless the corporation or person can prove that it or he did not act negligently in providing the certificate or the information.

If the seller or his representative has acted negligently for his part in providing the certificate or the information to the buyer, compensation for loss can be adjusted as reasonable in view of the circumstances.

## Section 2

### *Right of recovery on account of defective construction*

If the seller of the apartment is liable under this Act for a defect in the apartment due to the fault of the contractor or other economic operator who carried out construction or repair or participated in the work or its planning, the seller shall be entitled to compensation for his loss from said operator, irrespective of whether the seller had a contract with the operator.

If the defect concerned is in a material used in construction or repair, or in equipment that is a fixture in the apartment, the seller shall be correspondingly entitled to compensation for his loss from the manufacturer or importer of the defective material or equipment or, if the defect is due to the action of a later retailer, from the retailer. If the seller of the apartment has been obliged to compensate for material loss caused by a defect in material or equipment referred to above, the injured party's right to compensation shall be transferred to the seller to a corresponding amount in accordance with the Product Liability Act (694/90).

If any matter for which more than one of the persons referred to in paragraph 1 and 2 are liable has caused the defect in the apartment or the damage caused thereby, each party's liability for compensation shall be determined as reasonable under the circumstances.

## Settlement of disputes

## Section 3

### *Arbitration clauses*

Any clause in a contract concluded before a dispute arose, stipulating that disputes between the economic operator and the consumer shall be settled by arbitration, shall not bind the consumer.

Section 4  
*Jurisdiction clause*

In disputes between the consumer and the economic operator, the consumer may bring suit in the general lower court with jurisdiction over the locality in which he resides.

Chapter 8  
**Entry into force**

Section 1  
*Implementing provision*

This Act comes into force on September 1, 1995.

Notwithstanding, chapter 2, section 19, of this Act will come into force at a time to be laid down by decree. (17.7.1995/979)

Measures required to enforce this Act can be taken before it comes into effect.

Section 2  
*Provision on application*

The provisions of chapter 2 of this Act shall not apply if the housing shares in the company concerned were offered for sale before this Act came into force.

The provisions of chapter 3 shall not apply to a purchase bid or down payment agreement made before this Act came into force.

The provisions of chapters 4 and 6 shall not apply to a contract concluded before this Act came into force.

The provisions of chapter 5, sections 3 and 4, shall not apply if the party against whom the claim was directed had sold the apartment before this Act came into force. Section 6 of said chapter shall not apply to the claim of a buyer who cannot appeal to the provisions in chapter 5, section 31, of the Consumer Protection Act if the party against whom the claim was directed reassigned the equipment before this Act came into force.

The provisions in chapter 7 of this Act shall not apply to a claim the cause of which arose before this Act came into force.