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## Code of Inheritance

(40/1965; amendments up to 1228/2001 included)

### Chapter 1 — **Right to inherit**

#### Section 1

Only a person who was alive at the time of the death of the decedent may inherit; however, a child conceived before the said time and born alive shall inherit.

#### Section 2

If an heir has died and it cannot be proven that he or she survived the decedent, the heir shall be considered to have died before the decedent.

#### Section 3

- (1) A foreigner has the same right as a Finnish citizen to inherit in Finland.
- (2) If Finnish citizens do not have a right to inherit in a state or Finnish citizens as heirs are in a less favourable position to inherit than are citizens of this state, a corresponding restriction regarding the citizens of the said state may be issued by Decree.

### Chapter 2 — **Right of relatives to inherit**

#### Section 1

- (1) Direct descendants have a primary right to inherit.
- (2) Each child shall receive an equal share of the inheritance. If a child has died, his or her descendants shall take his or her place and each branch shall receive an equal share.

#### Section 2

- (1) If the decedent is not survived by any direct descendants, his or her father and mother shall each receive one half of the inheritance.
- (2) If the father or the mother has died, the brothers and sisters of the decedent shall divide the said person's share. The descendants of a deceased brother or sister shall take the place of the said person and each branch shall receive an equal share. If there are no brothers or sisters or their descendants, but one of the parents of the decedent is still living, the said person shall receive the entire inheritance.
- (3) If the decedent is survived by stepbrothers or stepsisters, they shall, together with any full brothers or sisters, receive their share of what their father or mother would have received. If there are no full brothers or sisters or their descendants and if both parents have died, the stepbrothers and stepsisters shall receive the entire inheritance. If a stepbrother or stepsister has died, the descendants of the said person shall take his or her place.

#### Section 3

- (1) If there are no heirs referred to in sections 1 and 2, the parents of the father and mother of the decedent shall receive the entire inheritance.

- (2) If the paternal grandfather or grandmother or the maternal grandfather or grandmother has died, the children of the said person shall receive the share of the inheritance which would have devolved on the said person.
- (3) If a parent of the father or the mother, who would have inherited if alive, is not survived by a child, the other parent of the father or the mother or, if also this parent has died but is survived by children from another marriage, the said children shall receive the dead person's share. If there are no heirs on one side of the family, the heirs on the other side of the family shall receive the entire inheritance.

*Section 4 has been repealed.*

#### Section 5

Persons other than the relatives mentioned in this chapter have no right to inherit.

### Chapter 3 — **Right of a spouse to inherit and to administer the estate** (209/1983)

#### Section 1

- (1) If the decedent was married and he or she is not survived by any direct descendants, the estate shall devolve on the surviving spouse.
- (2) Subject to the provisions in this chapter, if upon the death of the surviving spouse the father, mother, brother or sister or a descendant of such a brother or sister of the first deceased spouse is alive, those of the said persons who at the time have the primary right to inherit the first deceased spouse shall receive one half of the estate of the surviving spouse. The surviving spouse shall not bequeath what is thus to devolve on the heirs of the first deceased spouse.
- (3) If the surviving spouse is not survived by heirs, his or her share shall devolve to the heirs of the first deceased spouse referred to in paragraph (2). (209/1983)

#### Section 1a (209/1983)

- (1) Unless otherwise follows from a demand of the direct descendants for the distribution of the estate, or from the terms of a testament left by the decedent, the surviving spouse may retain possession of the undivided estate of the deceased spouse.
- (2) Notwithstanding a demand of a direct descendant for the distribution of the estate, or the rights of a beneficiary under a testament, the surviving spouse may retain possession of the undivided common home of the spouses or of other housing that is part of the decedent's estate and suitable as a home for the surviving spouse, unless there is housing suitable as a home for the surviving spouse in his or her own property. The customary household effects in the common home shall always remain undivided in the possession of the surviving spouse.
- (3) The provisions in chapter 12 on the right of use under the terms of a testament apply correspondingly to the right of the surviving spouse to retain possession of property in accordance with paragraphs (1) and (2).
- (4) Chapter 8, section 2, contains provisions on the right of the surviving spouse to receive support when the said spouse cannot be ensured adequate housing and household effects owing to the provisions in chapter 25 or some other reason.

#### Section 2

- (1) If, at the death of the first deceased spouse, one or both spouses had property to which the surviving spouse did not have a marital right, or if the estate of the first deceased spouse was for some other reason larger or smaller than one half of the property of the two spouses, the estate of the first deceased spouse shall be deemed to constitute a corresponding share of the estate of the surviving spouse at the death of the latter.

- (2) If the first deceased spouse had bequeathed his or her property to someone other than the surviving spouse, the value thereof shall be deducted from the estate in determining the share of the estate of the surviving spouse that is to devolve on the heirs of the first deceased spouse.

### Section 3

- (1) If the surviving spouse has given a gift or entered into another corresponding transaction, without due consideration to the right of the heirs of the first deceased spouse, and this has resulted in an essential decrease in the property of the surviving spouse, compensation shall be made to the heirs of the first deceased spouse for the decrease in their share of the estate, from what would otherwise devolve on the heirs of the surviving spouse in the distribution of the estate of the latter.
- (2) If such compensation cannot be made, the gift or the value thereof shall be returned if the donee knew or should have known that the gift infringed on the right of the heirs of the first deceased spouse. An action for the return of the gift shall be brought within a year from the inventory of the estate of the surviving spouse following the death of the said spouse; however, the action shall be brought no later than ten years after the gift was fulfilled.
- (3) If an obligation undertaken in the form of a promise of a gift has not been fulfilled upon the death of the surviving spouse, it shall not be fulfilled to the extent that it infringes on the right of the heirs of the first deceased spouse.

### Section 4

- (1) If, at the death of the surviving spouse, the value of the estate is greater than it was at the death of the first deceased spouse, the increase in the value of the estate shall accrue to the benefit of the heirs of the surviving spouse, if it can be established that the surviving spouse has received the corresponding property as an inheritance, a bequest or a gift or that the increase in the value is due to the gainful employment or business of the surviving spouse after the death of the first deceased spouse.
- (2) If, in the manner referred to in section 3, the property has decreased after the death of the first deceased spouse, this shall be taken into consideration when an heir of the surviving spouse demands an increase in his or her share under paragraph (1).

### Section 5

- (1) In the distribution of the estate of the later deceased spouse, the heirs of the first deceased spouse shall have the right to receive, as part of their share, what they want of the property that had belonged to the said spouse during the marriage. The heirs of the later deceased spouse shall have a corresponding right; this right shall apply also to the property acquired after the death of the first deceased spouse. Real property may be claimed from the estate even if its value exceeds the value of the share devolving on the heirs of a spouse, if money is given to supplement the share devolving on the other side.
- (2) In other respects, the provisions on the distribution of matrimonial property apply, in so far as appropriate, to the distribution procedure.

### Section 5a (209/1983)

On the request of the surviving spouse, the estate shall be distributed between him or her and the heirs of the first deceased spouse. The provisions in this chapter on distribution apply to such a distribution, and the distribution shall be binding also on the heirs of the first deceased spouse who would be entitled to inherit at the death of the surviving spouse.

### Section 6

- (1) If the surviving spouse has remarried, his or her net property subject to the marital right and his or her private property shall, at his or her death, be divided in accordance with this chapter before the distribution of the estate.

- (2) If, during the lifetime of the surviving spouse, a distribution of matrimonial property is carried out between the said spouse and his or her new spouse or the heirs thereof, property that corresponds to the share devolving on the heirs of the first deceased spouse under sections 1—4 shall first be set aside from his or her net property subject to the marital right and from his or her private property, to the benefit of these heirs.
- (3) The provisions in section 4 that apply in the event that the surviving spouse receives property under an inheritance, a bequest or a gift apply correspondingly if, by virtue of the new marriage, he or she receives more under the distribution of marital property than what he or she had before.

#### Section 7

- (1) Unless otherwise called for by special circumstances, a spouse does not have a right to the estate under this chapter if, at the death of the first deceased spouse, an action had already been brought for separation or for divorce or if the spouses had filed a petition for a judgment on the dissolution of the marriage or for separation. The same applies if the spouses had been granted a separation and the judgment had not lapsed by the time of the death of the first deceased spouse. (209/1983)
- (2) The same applies if, at the time of his or her death, the first deceased spouse had the right to request the annulment of the marriage.

*Chapter 4 has been repealed.*

## Chapter 5 — **Escheat**

### Section 1

If there are no heirs, the estate shall pass to the state.

### Section 2 (1401/1991)

- (1) If deemed reasonable under the circumstances, the State Treasury may decide that the property that has passed to the state be handed over, in full or in part, to a person close to the decedent. The property may also be handed over to the municipality where the decedent last resided. In addition, real property may be handed over to the municipality where it is located. (282/1993)
- (2) Property shall not be handed over in accordance with paragraph (1), if there is a special reason for the state retaining the property or the property being disposed of in some other manner. However, this provision shall not prevent the property being handed over to a person close to the decedent, if there is reason to believe that this would correspond to the last will of the decedent.
- (3) The provisions in paragraphs (1) and (2) apply also to property that has passed to the state in accordance with section 63 of the Act on the Autonomy of Åland (1144/1991).
- (4) If the value of the assets in the estate, less its debts, (*inventory value*) or the value of the property referred to in paragraph (3) exceeds a limit laid down by Decree, the decision referred to in paragraphs (1), (2) and (3) shall be made by the Government.

### Section 3 (1401/1991)

The state has the right to contest a testament made by the decedent, as provided in chapter 14, section 5. Even if there are grounds for the state to contest the testament, but there is no doubt as to the real intent of the testator, the State Treasury may decide that the testament is not to be contested.

### Section 4 (1401/1991)

More detailed provisions on how property that has passed to the state is handed over to someone are issued by Decree.

## Chapter 6 — **Advancement**

### Section 1

- (1) Unless otherwise stipulated or unless a contrary intention can be inferred from the circumstances, what the decedent during his or her lifetime gave to a direct descendant shall be considered as an advancement and deducted from the inheritance of the latter. If the recipient of the advancement is an heir who is not a direct descendant, the said deduction shall be made only if, at the time the property was given, it was so stipulated or such an intention is to be inferred from the circumstances.
- (2) If a direct descendant of both spouses has been given an advancement from the property of one of the spouses subject to the marital right, the value thereof shall be deducted from the inheritance left by the first deceased spouse. If the entire value of the advancement cannot be deducted therefrom, the remainder shall be deducted from the inheritance left by the other spouse.

### Section 2

- (1) The expenses incurred by the father or the mother by supporting, raising and educating a child shall not be deducted from the inheritance of the said child.
- (2) If, considering the circumstances of the family, extraordinary expenses have been incurred by educating a child, a deduction reasonable with regard to the circumstances may be made therefor.

### Section 3

If the decedent has stipulated in a testament that a deduction is to be made from the inheritance devolving on a direct descendant because special expenses have been incurred by supporting, raising and educating the said descendant, and if this deduction is reasonable with regard to the circumstances, the said disposition shall be complied with even if it infringes on the heir's lawful share.

### Section 4

No deduction shall be made from the inheritance devolving on a direct descendant for a customary gift, the value of which is not disproportionate to the circumstances of the donor.

### Section 5

In deducting an advancement, its value shall be considered to be the value that it had when received, unless the circumstances otherwise require.

### Section 6

If the entire value of an advancement cannot be deducted from the inheritance devolving on an heir, he or she shall not be liable to return the balance unless so stipulated when the advancement was made.

### Section 7

In order to determine the sizes of the respective shares of the inheritance, the full value of an advancement shall be added, before the distribution of the estate, to the net value of the estate or, if the value of the advancement cannot be deducted in full from the share devolving on the heir in question, as much of that value as can be deducted shall be added to the net value.

### Section 8

- (1) If an heir who has received an advancement has died before the decedent, the advancement shall be deducted from the shares of the inheritance devolving on his or her heirs.
- (2) If the estate is to be distributed among different branches of the family and an heir in one branch who has died before the decedent and left no direct descendants who would have had the right to inherit in his or her stead has received an advancement, the said advancement shall be deducted from the shares of the inheritance devolving on the other heirs in the same branch;

however, these heirs shall not receive a smaller share of the estate than they would receive if the recipient of the advancement were alive.

#### Section 9

- (1) Unless the contrary has been stipulated or can be inferred from the circumstances, property subject to a marital right and given by a spouse to his or her stepchild or stepchild's direct descendant shall be deducted from the inheritance devolving on the recipient at the death of the other spouse.
- (2) Under the same conditions, what the surviving spouse has given to an heir or a beneficiary under a testament who, under chapter 3, section 1, or chapter 12, section 1, is to receive a share of the estate of the surviving spouse, shall be deducted from the share of the inheritance devolving on the recipient. Also in these cases, the provisions in sections 2 and 4—8 apply.

#### Section 10

The provisions in this chapter on a direct descendant apply correspondingly to an adopted child and his or her descendants.

### Chapter 7 — **Lawful share**

#### Section 1

- (1) A direct descendant and an adopted child, as well as the descendant of an adopted child, shall be entitled to a lawful share of the estate of the decedent.
- (2) The lawful share shall amount to one half of the value of the share of the estate that according to the statutory order of succession devolves on the heir referred to in paragraph (1).

#### Section 2

- (1) In determining the lawful share, a person whom the decedent has disinherited in a testament or who for some other legal reason is not to inherit shall also be taken into account.
- (2) *Paragraph has been repealed.*

#### Section 3

- (1) In determining the lawful share, due note shall be taken of the value of the property that, under the Marriage Act, is to devolve from the surviving spouse on the heirs of the first deceased spouse, or to be paid to the surviving spouse.
- (2) No deduction shall be made from the assets of the estate for an obligation given in the form of a promise of a gift nor for an amount that is to be paid for the future fulfilment of the decedent's statutory maintenance obligation.
- (3) An addition shall be made to the assets of the estate for an advancement made by the decedent and, in the absence of special reasons to the contrary, for a gift given by him or her when living under such circumstances or in such conditions that, with regard to its intent, the gift is to be equated with a testament; the same applies to a gift given by the decedent to his or her descendant or adopted child, or to a descendant of an adopted child, or a spouse of any of the same, if the apparent purpose of the gift was to favour its recipient to the detriment of an heir entitled to a lawful share. The value of the property shall be considered to be its value when received, unless the circumstances otherwise require.

#### Section 4

If the decedent has taken out life insurance and designated a third party as the beneficiary, or assigned the life insurance policy to a third party, the premiums paid by the decedent, if disproportionate to his or her circumstances and assets, shall be added to the assets of the estate in determining the shares in the estate; however, the maximum addition shall be the amount of the policy. If the decedent has received consideration for the designation of the beneficiary or the assignment of the policy, the consideration shall be deducted from the premiums.

### Section 5

- (1) A testament shall be invalid as against an heir in so far as it prevents the heir from taking his or her lawful share of the estate, or restricts the heir's right to decide the property that is to constitute the lawful share. (700/1990)
- (2) Notwithstanding the provisions in paragraph (1), a testament by which the decedent has bequeathed his or her estate or a part thereof on condition that the beneficiary pay the heir entitled to a lawful share a sum of money that corresponds to the lawful share or the part missing thereof shall be valid if the payment takes place within a reasonable period specified by the heir.
- (3) The heir shall invoke the lack of effect of the testament by notifying his or her demand for the lawful share to the beneficiary, by way of a process server or in another verifiable manner, within six months of being served with the testament as provided in chapter 14, section 4(1). The heir shall not invoke the lack of effect of the testament, if he or she has renounced the lawful share after the death of the decedent. Chapter 17, section 1(2), contains provisions on the renunciation of the lawful share during the lifetime of the decedent. (700/1990)

### Section 6

If a commitment given in the form of a promise of a gift was not fulfilled at the death of the decedent, it shall not be fulfilled to the extent that it would infringe on the right of an heir to a lawful share.

### Section 7

Property received by an heir that is to be taken into account in determining the shares in the estate shall be considered as a deduction from the lawful share of the said heir. If an heir entitled to a lawful share has taken the place of another who has received such property, this property shall be deducted from his or her lawful share.

### Section 8

- (1) If, even when a testament and a promise of a gift are disregarded, an heir cannot receive his or her lawful share, a person to whom the decedent during his or her lifetime had given property referred to in section 3(3), or a person who has collected on the insurance referred to in section 4, shall be liable to supplement what is missing from the lawful share up to the amount that, in determining the size of the shares in the inheritance, is to be added to the assets of the estate.
- (2) If a person who is liable to supplement a lawful share has, through no negligence on his or her part, lost property referred to in paragraph (1), he or she shall be liable only up to the value of the property that remains in his or her possession.
- (3) If several persons are liable under paragraph (1), their respective liabilities shall be proportionate to their individual liabilities.

### Section 9

If a supplement to a lawful share is claimed from another heir entitled to a lawful share, he or she may retain what is needed for his or her own lawful share.

### Section 10

An action for a supplement to a lawful share shall be brought within one year of the date when the heir was informed of the death of the decedent and of the gift or other term of a transaction by the decedent infringing on the right of the heir to his or her lawful share; in any event, no action shall be brought once ten years have passed after the death of the decedent.

### Section 11 (768/1991)

The right of an heir to a lawful share shall not devolve on his or her creditors.

## Chapter 8 — **Support and compensation** (209/1983)

### Section 1

- (1) If a child of the decedent needs funds for his or her upbringing or education in addition to what devolves on him or her as an inheritance, he or she shall, to the extent considered reasonable under the circumstances, be paid a lump-sum support from the undivided net estate to support him or her until the age of twenty-one years at the most.
- (2) The support referred to in paragraph (1) shall be paid from the estate before inheritances or bequests. However, the support shall not diminish the share of another heir if this heir, because of illness or other such reason, is unable to support himself or herself and if the inheritance is necessary for his or her reasonable livelihood or for the fulfilment of his or her maintenance obligation.

### Section 2 (209/1983)

- (1) The person engaged to the decedent and, in cases referred to in chapter 3, section 7, the surviving spouse may, if necessary for his or her livelihood, be paid money or other property as a lump-sum support from the net estate, as deemed reasonable.
- (2) Support may be given to the surviving spouse also if he or she cannot, under chapters 3 and 25, be given the property needed for a sufficient livelihood.
- (3) In the absence of persuasive reasons to the contrary, the payment of support shall not infringe on the right of an heir to a lawful share.

### Section 3

- (1) If, owing to illness or another similar reason, a child of the decedent is unable to support himself or herself, he or she has the right to receive support from a beneficiary under a testament up to the value of the property given to the said person by way of the testament, if this is necessary for the reasonable livelihood of the child.
- (2) Where a testament has been made in favour of an heir entitled to a lawful share, the said heir shall be liable to provide support only to the extent that he or she has received property under the testament in excess of his or her lawful share.
- (3) If, during his or her lifetime, the decedent had given property as a gift under such circumstances or in such conditions that, with regard to its intent, the gift is to be equated with a testament, the provisions in paragraphs (1) and (2) on a testament and the beneficiary under a testament apply correspondingly to the gift and the donee.

### Section 4

The provisions in section 3 on the child of a decedent apply correspondingly to the parents of the decedent, where they have the right to inherit.

### Section 5 (209/1983)

- (1) If, after having reached the age of 18 years, an heir had continuously worked to assist the decedent in his or her business or profession, or in his or her household, without receiving reasonable compensation therefor, he or she shall on demand be entitled to compensation from the estate, even if the work had not been based on an agreement between the parties.
- (2) Compensation may be demanded for a total of five years at the most; not, however, for work performed more than ten years before the death of the decedent.
- (3) In determining the amount of the compensation, the assets of the estate, the type and amount of the work performed, the skill of the worker, the compensation received in kind or otherwise from the decedent and the other special circumstances shall be taken into consideration. However, the payment of the compensation shall not infringe on the right of an heir to a lawful share.

#### Section 6 (209/1983)

- (1) The support under sections 3 and 4 and the compensation referred to in section 5 shall be paid as lump sums. A testament shall be invalid in so far as it infringes on the right to support or compensation under sections 1 and 2.
- (2) The support and compensation shall not infringe on the right of the surviving spouse to the benefits referred to in chapter 3, section 1a(2).
- (3) If an obligation given as a promise of a gift was not fulfilled at the death of the decedent, it shall not be fulfilled to the extent that it prevents a person from receiving support or compensation in full.

#### Section 7 (209/1983)

If several persons have a right to support or compensation and the assets are not sufficient for the payment in full of all of these, the amount of support and compensation shall be adjusted among those entitled to it as is reasonable with regard to their needs and the other circumstances.

#### Section 8 (209/1983)

- (1) The support referred to in sections 1 and 2 and the compensation shall be claimed at the latest at the distribution of the estate. If the estate is not to be distributed, support under section 2 shall be claimed at the latest at the distribution of the matrimonial property of the spouses.
- (2) If a claim for support under section 3 or 4 is directed at a beneficiary under a testament, it shall be made within a year from the date when the person entitled to the support was notified of the testament in the manner provided in chapter 14, section 4, or, if the person entitled to the support need not be notified of the testament, from the date of the inventory of the estate. A claim directed at the recipient of a gift shall be made within a year from the date the person entitled to the support was notified of the death of the decedent and of the gift; not, however, later than ten years after the death of the decedent.

*Section 9 has been repealed.*

### Chapter 9 — **Testamentary capacity and right to receive under testament**

#### Section 1 (458/1976)

A person who has reached the age of eighteen years may dispose of his or her property by testament. A testament may also be made by a younger person, if he or she is or has been married, and by a person who is has reached the age of fifteen years also in other cases with regard to property that he or she is self entitled to administer.

#### Section 2

- (1) A testament which designates as the beneficiary a person other than one who survives the decedent, or is conceived before the death of the decedent and subsequently delivered alive, shall be invalid.
- (2) However, it may be stipulated by a testament that the future children of a person who may receive under a testament under paragraph (1) are to receive property with full legal title at the death of the said person or at the termination of a right that another person may have to the property.

#### Section 3

The provisions on the right of a foreigner to inherit apply to the right of a foreigner to receive property under a testament in Finland.

### Chapter 10 — **Making and revoking a testament**

#### Section 1

A testament shall be made in writing with two witnesses simultaneously present; after the testator has signed the testament or acknowledged his or her signature

thereon, these shall attest the testament with their signatures. They are to be aware that the document is a testament, but it shall be in the discretion of the testator whether to inform them of the contents of the testament.

#### Section 2

- (1) The witnesses shall note their occupations and places of residence next to their signatures, as well as note the place and time of the attestation; they shall note also any other factors that they consider relevant with regard to the validity of the testament.
- (2) If an action is brought, an attestation by the witnesses on the testament that the procedure in section 1 was followed in making the testament shall be considered reliable, unless there are indications to the contrary.

#### Section 3

- (1) A person who, owing to illness or another compelling reason, is prevented from making a testament in the manner provided in section 1 may make it orally with two witnesses simultaneously present, or even without witnesses by way of a personally hand-written and signed document.
- (2) A testament referred to in paragraph (1) shall be deemed to have lapsed if, after having been prevented, the testator has for three months had the opportunity to dispose of his or her property in the manner provided in section 1.

#### Section 4

- (1) A testament shall not be attested by a person who is under fifteen years of age or who is unable to bear witness due to a mental defect, nor by the spouse or a direct ascendant or descendant or in-law of the testator, nor by the testator's brother or sister or the spouse of such, nor by the testator's adoptive parents or adopted children.
- (2) No one shall attest a disposition which benefits himself or herself or his or her spouse or a person who is related to him or her as stated in paragraph (1). A stipulation in a testament appointing a person as the executor shall not in itself prevent this person from attesting the testament.

#### Section 5

- (1) If the testator has revoked his or her testamentary dispositions in the order provided for the making of a testament, or destroyed the testament or otherwise clearly indicated that the dispositions no longer correspond to his or her last will, the dispositions shall be invalid.
- (2) A promise not to revoke a testament shall not be binding.

#### Section 6

Where, in revoking testamentary dispositions or otherwise, a codicil is to be added to the testament, the provisions on the making of a testament apply.

#### Section 7

A person who, by unilaterally revoking or changing a reciprocal testament, clearly violates the essential preconditions of a reciprocal provision, shall forfeit his or her right under the testament.

## Chapter 11 — **Construing a testament**

#### Section 1

- (1) A testament shall be construed in accordance with what can be deemed to be the will of the testator. Accordingly, the provisions in this chapter apply only in so far as they are not in contradiction with a testamentary disposition, with reference to its intent and the other circumstances.
- (2) If the testament, due to a typographical error or an erroneous expression, has received a content other than what the testator had intended, the testament shall nevertheless be executed if the true intent can be discovered.

## Section 2

A bequest shall be executed from the undistributed estate.

## Section 3

If all bequests cannot be executed, a bequest of specified property shall be executed before the others; otherwise a deduction proportional to the value of the bequest shall be made from each.

## Section 4

If a bequest refers to specific property that does not belong to the estate, the bequest shall be invalid in this respect.

## Section 5

The fact that bequeathed property is encumbered with a lien or some other right, based on a mortgage or otherwise, does not entitle the beneficiary under the testament to receive other property in its stead.

## Section 6

If a beneficiary under the testament dies before his or her right under the testament comes into force or if the testament for other reasons cannot be executed in his or her respect, his or her descendants shall take his or her place if they would have had the right to inherit the testator.

## Section 7

Subject to the provisions in section 6, if a person has, by a testament, disposed of his or her entire estate or everything not subject to a lawful share, and the testament cannot be executed with regard to one of the beneficiaries, the shares of the universal beneficiaries shall be correspondingly increased.

## Section 8

If the testator's fiancé(e) or spouse has been designated as beneficiary under the testament and the engagement is broken or the marriage dissolved thereafter for reasons other than the death of the testator, the disposition shall be invalid. The same apply in respect of a testament designating the spouse as beneficiary in cases referred to in chapter 3, section 7.

## Section 9

If the testament contains a condition in respect of property that shall devolve on a certain heir or beneficiary under the testament, the recipient shall execute the condition. In other cases a condition shall be executed from the undistributed estate.

## Chapter 12 — **Right of use under a testament**

### Section 1

If it is stipulated in a testament that property devolving on the surviving spouse as an heir or as a universal beneficiary shall, upon the termination of the right of the spouse, devolve on another person, the provisions in chapter 3 apply correspondingly, unless the testament otherwise requires.

### Section 2

If it is stipulated in a testament that someone is to have a right of use to the estate of the testator or to property belonging to the estate, while another person is to have title to this property at or after the death of the testator, the provisions below of this chapter apply, unless the testament otherwise requires.

### Section 3

- (1) A person who has received a right of use to property under a testament shall be entitled to administer the property and to receive its proceeds. In administering the property, he or she shall take into consideration also the right and interests of the owner. The property shall not be mixed with other property unless necessary for its appropriate use.

- (2) The holder of the right of use shall be responsible for the necessary expenses deriving from the property which are such that they are to be paid out of the proceeds accruing during his or her administration.

#### Section 4

- (1) A right of use under a testament shall not be transferred to another person.
- (2) The holder of the right of use may convey or pledge the property subject to this right only with the permission of the owner. Even without a permission, the holder may convey movables if this is due to the necessary renewal of the property subject to the right of use or if the property belongs to an industrial, commercial or other enterprise and the conveyance is a part of the regular commerce of the enterprise or if the conveyance otherwise is in accordance with the requirements of sensible management. In other cases, unless the property is of special value to the owner, the court may, on petition and for special reasons, grant permission for the conveyance or pledge of movables.
- (3) The holder of the right of use is entitled to call a receivable and claim the payment on behalf of the owner.
- (4) If the surviving spouse, who is not a shareholder in the decedent's estate, sues or is sued in a matter concerning his or her right of use, the provisions in chapter 18, section 2(2), apply correspondingly. (209/1983)

#### Section 5

Monetary assets shall be invested by the holder of the right of use, in the name of the owner, in a secure and profitable manner unless the owner or, when his or her consent cannot be obtained, the court has granted permission to act otherwise. However, even without such a permission, assets invested in agriculture or another business may be reinvested for the same purpose, and small monetary proceeds otherwise received from the sale of movables may be used for the purchase of similar property.

#### Section 6

- (1) Without the consent of the holder of the right of use, the owner shall not transfer or pledge property subject to the right nor dispose of it in any other manner. In the case of real property and a leasehold over the land of another which, together with the right to administer the land, can be transferred to a third party without hearing the landowner, the consent shall be given in a document attested by two qualified witnesses. If the consent cannot be obtained, the court may, when necessary, permit the intended act on petition.
- (2) If the owner has disposed of the property without consent or permission, the act shall be invalid as against the holder of the right of use.

#### Section 7

Property subject to the right of use shall not be distrained for a debt of the owner unless the property, on the basis of a registered mortgage or otherwise, stands as security for the debt or unless the debt is one for which the owner is liable in accordance with the provisions in chapter 21.

#### Section 8

The provisions in this chapter on property subject to the right of use apply also to property that comes in lieu of such property.

#### Section 9

- (1) If the holder of the right of use, by mismanaging the property or through other unjustified action obviously compromises the interests of the owner, the court may, on petition, order him or her to provide security for the property or decide that the property be surrendered to the administration of a trustee appointed by the court.
- (2) Upon the termination of the right of use or the surrender of the property into the administration of a trustee, compensation shall be paid for loss or damage that

the holder of the right of use has deliberately or through negligence caused to the owner.

## Chapter 13 — **Invalidity of a testament**

### Section 1

A testament may be contested and declared to be invalid:

- (1) if, under chapter 9, section 1, the testator lacked testamentary capacity;
- (2) if the testament was not made in the form prescribed by law;
- (3) if a mental illness, debility or other mental defect of the testator had influenced the making of the testament; or
- (4) if the testator was coerced into making the testament or induced to it through abuse of the testator's lack of understanding, lack of willpower or position of dependence, or deceitfully misled into making the testament, or if the testator had in other respects erred in a manner that had decisively influenced his or her wishes.

### Section 2

If the provisions in chapter 10, section 4(2), were not followed with regard to a disposition contained in a testament, the testament shall be invalid in this respect.

## Chapter 14 — **Service of a testament and contesting a testament** (700/1990)

*Sections 1—3 have been repealed.*

### Section 4 (700/1990)

- (1) After the death of the testator, the beneficiary under the testament shall serve the testament on the heirs by way of a process server or otherwise in a verifiable manner; the heirs shall at the same time be provided with a certified copy of the testament. If the testament has been made orally, the heirs shall be provided with a certified copy of the court record taken at the hearing of the witnesses, or with some other written account of the contents of the testament.
- (2) If the surviving spouse is the heir of the testator, the testament shall be served also on the heirs, referred to in chapter 3, section 1(2), who at the time of service are the closest heirs to the testator. If the testator has no heirs, the testament shall be served on the State Treasury.
- (3) If there are several beneficiaries under the testament, a service effected by one of them shall be effective also in respect of the others.

### Section 5 (700/1990)

If an heir wishes to contest the testament on the grounds referred to in chapter 13, he or she shall bring an action to this effect within six months of having been served with the testament. However, the heir does not have the right to contest the testament if he or she has approved of the testament or in some other verifiable manner renounced the right to contest the testament.

### Section 6 (768/1991)

The right of an heir to contest the testament shall not pass to his or her creditors.

## Chapter 15 — **Forfeiture of a right based on inheritance or testament and disinheritance**

### Section 1

- (1) No one shall inherit or receive under a testament if he or she has deliberately caused the death of the decedent through a criminal act.

- (2) If the offence referred to in paragraph (1) has been directed at an heir or beneficiary under a testament of the decedent, the offender shall have no better right than he or she would have had during the lifetime of the person who was killed.

#### Section 2

If someone has deliberately destroyed or concealed the testament of the decedent, the court may declare that he or she has, in full or in part, forfeited his or her right to inherit or receive under a testament at the death of the decedent.

#### Section 3

The provisions in sections 1 and 2 apply also to a participant in the acts referred to therein.

#### Section 4

- (1) Notwithstanding the provisions on the right of an heir to a lawful share, the decedent may disinherit the said heir if the heir, through a deliberate act, has seriously offended the decedent or a relative or adopted child capable of inheriting the decedent or a descendant of such a person. The same applies if the heir continuously leads a dishonourable or immoral life.
- (2) The disinheritance shall be stipulated in a testament stating also the reason thereto. Whoever invokes such a stipulation shall carry the burden of proof as to the grounds for disinheritance.

#### Section 5

An inheritance forfeited by an heir in the manner provided in sections 1—4 shall devolve on the person who would have been entitled to the inheritance if the heir had died before the decedent.

### Chapter 16 — **Statute of limitations for inheritances and testaments**

#### Section 1

- (1) An heir or a beneficiary under a testament shall enforce his or her right in the manner provided in this chapter within ten years of the death of the decedent or, if the right under a testament begins later, of the said later date.
- (2) However, on petition of a person who has a right to the estate in addition to or immediately following an heir or a beneficiary under a testament, the court may order that the said person is to enforce his or her right within a given period, not to exceed one year, after the date when he or she was informed of the disposition.

#### Section 2

- (1) An heir who wants to enforce his or her right to inherit shall take possession of the inheritance or give notice of his or her claim to the person(s) in possession of the inheritance or, if the estate has not been distributed, to the estate administrator. The said claim may also be presented to the court or, within the territorial jurisdiction of a district court, to the judge. If a trustee has been appointed for an heir to oversee his or her right to inherit, the heir may also give notice to the trustee, who shall without delay inform the court or judge of the same.
- (2) An heir shall be considered to have taken possession of the inheritance if he or she alone or with others has taken over the administration of the estate, participated in the inventory or distribution of the estate or as an heir has otherwise undertaken acts with regard to the estate.
- (3) The provisions in paragraphs (1) and (2) apply correspondingly to a beneficiary under a testament.

#### Section 3

If an heir has lost his or her right to inherit under the provisions in this chapter, the inheritance shall devolve on the person who would have received it if the heir had died before the decedent.

#### Section 4

The court or the judge to whom the notice referred to in section 2 has been given shall send notice thereof to the shareholders in the estate whose names and addresses are stated in the estate inventory or are otherwise known.

### Chapter 17 — **Renunciation of inheritance and transfer of a share in an inheritance**

#### Section 1

- (1) An agreement pertaining to the estate of a person still living shall be invalid.
- (2) If an heir, by approving the testament or otherwise, gives notice to the decedent in writing that he or she renounces the inheritance, the said renunciation shall be valid. However, the heir shall receive his or her lawful share unless he or she has received reasonable consideration therefor or unless his or her spouse, on the basis of a testament, or his or her descendants, by law or on the basis of a testament, receive property corresponding to the lawful share.

#### Section 2

The provisions on a testament apply to a promise of a gift not to be fulfilled during the lifetime of the donor.

#### Section 2a (768/1991)

An heir and a beneficiary under a testament are entitled to renounce their right after the death of the decedent, unless they have already undertaken measures that indicate that they have taken possession of the inheritance. The renunciation shall be effected in writing. The provisions of the Bankruptcy Code and the Enforcement Act apply to the binding effect of the renunciation in relation to the creditors of the heir or the beneficiary under the testament.

#### Section 3

After the death of the decedent, an heir and a universal beneficiary under a testament may transfer their shares in the estate to another. Such a transfer shall be effected in writing.

### Chapter 18 — **Administration of a decedent's estate**

#### Section 1

- (1) The heirs, the universal beneficiaries under a testament and the surviving spouse shall be shareholders in the decedent's estate. If the distribution of matrimonial property has been carried out or the spouse does not have a marital right to the property of the other spouse, the surviving spouse shall not be a shareholder unless he or she is an heir or a universal beneficiary. A person who has the right to inherit or receive under a testament only after the death of another heir or universal beneficiary shall be a shareholder in the estate of this latter person, but not in the estate of the first decedent.
- (2) An heir and a universal beneficiary under a testament shall be considered shareholders even when their right has been contested.

#### Section 2

- (1) When the administration of a decedent's estate has not been specifically arranged in accordance with this Act, the shareholders shall administer the property of the estate jointly in order to settle the estate. In this event, they shall represent the estate in respect of third parties and may sue and be sued in matters concerning the estate. A measure which cannot be delayed may be undertaken even if the consent of all of the shareholders cannot be obtained.
- (2) A shareholder is entitled to bring an action to the benefit of the estate; however, the other shareholders shall also be summonsed to be heard in the matter. The shareholder is entitled to compensation from the estate for his or her costs if the

assets obtained for the estate through the proceedings are sufficient for this purpose or this is otherwise considered reasonable.

### Section 3

- (1) Unless the estate is being administered by a guardian, administrator or other person, and until all shareholders or the person who is otherwise to administer the estate have taken over the administration of the estate, it shall be administered by the shareholder who, at the death of the decedent, lived with him or her or who otherwise can take care of the property. The shareholder shall notify the other shareholders of the death without delay and, if it is necessary to appoint a trustee a shareholder, notify the court or judge thereof as provided in the Guardianship Act. The above provision on a shareholder applies also to the surviving spouse even if he or she is not a shareholder in the estate.
- (2) If an heir or a beneficiary under a testament lacks legal capacity or if the capacity of such a person has been restricted, and he or she does not have a guardian, the person administering the estate shall notify the same to the guardianship authority referred to in section 46 or 47 of the Guardianship Act (442/1999). (463/1999)

### Section 4

- (1) If none of the persons referred to in section 3(1) undertakes to take care of the property of the decedent, the person who under the circumstances is primarily responsible therefor shall take possession of the property and invite a shareholder to arrive or notify the court of the death. The police shall also carry out what is stated here if their assistance is sought or this is otherwise necessary.
- (2) Upon receipt of the notification the court shall, if necessary, appoint an administrator to undertake the duties of a shareholder under section 3. The court order shall be observed regardless of appeal.
- (3) If the court is not in session, a district judge may issue the court order referred to in paragraph (2), to be in effect until the court decides on the matter. An order issued by the judge shall not be subject to appeal.

### Section 5

The costs of burial and of the estate inventory as well as of the care, administration and settlement of the estate shall be paid from the assets of the estate.

### Section 6

- (1) A shareholder whose livelihood was dependent on the decedent shall have the right to receive from the estate in advance what he or she needs for his or her livelihood, to the extent that his or her share apparently suffices for this and the advance can be paid without impeding the settlement of the estate.
- (2) The surviving spouse as well as the children and adopted children not provided for shall have the right to receive the maintenance they need from the estate for as long as it is being settled.

### Section 7

- (1) A shareholder shall compensate for any loss or damage that he or she has caused, deliberately or through negligence, when administering or taking care of the estate, to a person whose right is dependent on the settlement of the estate. In the case of slight negligence, the compensation may be adjusted or the shareholder may be entirely relieved of such liability, if this is deemed reasonable in respect of the extent of the loss or damage and the other circumstances.
- (2) When several persons are liable, their liability shall be joint and several; however, if the compensation has been adjusted in respect of a person in accordance with paragraph (1), this person shall be liable only to the adjusted amount. The amount of compensation shall be apportioned among those liable as is deemed reasonable, taking into consideration the guilt of each and the other circumstances.

## Chapter 19 — **Administrator of an estate and executor of a testament**

### Section 1

- (1) On the petition of a shareholder in the estate, the court shall order that the property of the estate is to be surrendered to the administration of an estate administrator and appoint someone to serve in this capacity. If someone else than an heir or a universal beneficiary under a testament has been appointed in the testament to administer the estate as executor, the court order shall be issued also on the petition of this person. A petition for a court order may be filed also by the recipient of a bequest or a person entitled to bring an action for the fulfilment of a testamentary condition, when this is deemed necessary in order to fulfil the bequest or condition. A person to whom an heir or a universal beneficiary under the testament has transferred his or her share in the estate shall also have the same right.
- (2) The petition may also be filed by a person entitled to support who is not a shareholder in the estate if this is deemed necessary in order to enforce the claim for support. (209/1983)
- (3) If, under the testament, property belonging to the estate has been separated from the administration of the shareholders in the estate without appointing an executor or if the person appointed as executor does not undertake to perform this duty, the court shall issue the order referred to in paragraph (1) on the petition of a person whose right is dependent on the settlement of the estate or on the basis of other information of the matter. (209/1983)
- (4) An order under this section may also be based on a testament which has not yet become finally enforceable. (209/1983)

### Section 2

- (1) The property of the estate may be surrendered to an estate administrator in the manner referred to in section 1 also on the petition of a creditor of the estate or a person who is liable for the payment of a debt of the decedent, if it is to be presumed that the assets of the estate will be insufficient to cover the debts or that the right of the petitioner will otherwise be compromised.
- (2) The petition may also be filed by a creditor of a shareholder in the estate if the share of the said shareholder in the estate has been distrained to cover the creditor's claim.

### Section 3

When a petition for the appointment of an estate administrator is filed, the shareholders in the estate and the executor of the testament, if any, and their places of residence shall also be stated. If the estate inventory has been completed, a certified extract of the inventory deed shall be appended to the petition, showing the status of the estate and the type of assets therein.

### Section 4

- (1) The court shall appoint as estate administrator a person who can be presumed capable of settling the estate with the skill demanded by the type of the estate and who accepts the appointment. Special attention shall be paid to the suggestions of the shareholders in the estate and also of other persons whose right is dependent on the settlement of the estate.
- (2) A shareholder may be appointed as estate administrator.
- (3) If an executor has been appointed in the testament, he or she shall be appointed as estate administrator unless there are reasons to the contrary.

### Section 5

Several estate administrators may be appointed if the type or extent of the estate or other special reasons so require. The court may apportion the administration of the estate among them, stating the grounds for the apportionment.

### Section 6

- (1) If an estate administrator wishes to relinquish his or her duties and shows a valid cause, the court shall discharge him or her.
- (2) If an estate administrator is not suitable for his or her duties, he or she shall be dismissed on the petition of a person whose right is dependent on the settlement of the estate. The same applies if the settlement of the estate is for a special reason to be entrusted to another person. If the court becomes aware of circumstances under which an estate administrator is to be considered unsuitable for his or her duties, the court may dismiss him or her on its own motion.

### Section 7

If all the shareholders in the estate request that the estate no longer be administered by an estate administrator, the court shall so order if this does not cause a risk of loss or damage to anyone whose right is dependent on the settlement of the estate, and by the same order discharge the estate administrator from his or her duties. If the executor of the testament has been appointed as administrator, his or her consent must be obtained in order for him or her to be discharged.

### Section 8

If the estate is surrendered into bankruptcy, the appointment of the estate administrator shall lapse.

### Section 9

If an estate administrator dies, the person responsible for the care of his or her property shall notify the court thereof without delay. The said notification may be made also by a person whose right is dependent on the settlement of the estate.

### Section 10

- (1) A petition referred to in sections 1, 2 or 6 as well as the notification referred to in section 9 may be given to the court or to the court registry.
- (2) If the person who has filed a petition in accordance with sections 1 or 2 has not fulfilled the provisions in section 3, the court or the judge shall set a time limit therefor under the threat that, unless the missing information is made available by the time the matter is taken up for further consideration, the petition may be considered to have lapsed.
- (3) Before the court decides on the appointment or the discharge of an estate administrator, the court or the judge shall reserve the shareholders an opportunity to express their opinion on the matter if this can be done without considerable delay. In cases referred to in sections 6(2) and 7, notice shall be given also to the person who had requested the appointment.
- (4) An estate administrator shall not be dismissed from his or her duties before he or she has been reserved an opportunity to be heard in the matter.

### Section 11

- (1) If the issue of the appointment or dismissal of an estate administrator cannot be decided immediately and finally, the court and also the district judge may issue an interim order until a final court order has been issued. If the interim order has been issued by a judge, he shall notify the court thereof at the next general session.
- (2) If the matter at issue is the dismissal of an estate administrator, he or she shall be reserved an opportunity to be heard in the matter before the decision referred to in paragraph (1) is made of only if this can be done without considerable delay.

### Section 12

- (1) The estate administrator shall, in accordance with the following provisions, undertake all measures necessary for the settlement of the estate.
- (2) If it is noted that the assets of the estate are not sufficient for the payment of its debts, the estate administrator shall attempt to reach an agreement with the

creditors to their satisfaction. If no agreement can be reached and if the shareholders do not make up for the shortage, the estate administrator shall surrender the estate into bankruptcy.

- (3) If possible without undue inconvenience, the estate administrator shall ask the opinion of the shareholders when the settlement concerns a business in which the decedent was engaged, an agreement with the creditors as referred to in paragraph (2), or the sale of property that is of special value to the shareholders, or other issues important to the shareholders.

#### Section 13

The estate administrator shall represent the decedent's estate in respect of third parties and can sue and be sued in matters concerning the estate.

#### Section 14

- (1) Real property and a leasehold over the land of another which, together with the right to administer the land, can be transferred to a third party without hearing the landowner shall not be transferred or mortgaged by the estate administrator unless the shareholders consent to this in a document signed by two qualified witnesses or, if the consent cannot be obtained, the court permits the measure on petition.
- (2) If an estate administrator has undertaken a measure referred to in paragraph (1) without the consent of the shareholders or the permission of the court, the measure shall be invalid if contested by a shareholder. An action to this effect shall be brought within six months of the date when the shareholder was notified of the measure, and at the latest within a year of the registration of title or mortgage to the property.

#### Section 15

The monetary assets of the estate deposited in a bank to earn interest shall be deposited in the name of the estate. Also in other respects, the assets of the estate shall not be mixed with property belonging to the estate administrator or to some other person.

#### Section 16

- (1) As soon as the settlement of the estate required for the distribution of matrimonial property or of the inheritance has been carried out and the distribution can be effected without detriment to anyone whose right is dependent on the settlement of the estate, the estate administrator shall notify the shareholders of the same and render an account of his administration.
- (2) Once the distribution of matrimonial property or of the inheritance has been effected and become legally final, the estate administrator shall give each shareholder the property due to him or her.
- (3) If the estate administrator has relinquished his or her duties without completing them, he or she shall remain responsible to render an account.

#### Section 17

If estate administrators, among whom the administration has not been apportioned, cannot agree on a matter to be decided and there is no majority in favour of any opinion, the matter shall be brought before the court for a decision.

#### Section 18

- (1) On the petition of a shareholder in the estate or of a person whose right is dependent on the settlement of the estate, the court may order that the estate administrator render an account of his or her administration, or appoint a person to audit the administration and report on the same.
- (2) If the court order referred to in paragraph (1) has not been given on the joint petition of all shareholders in the estate, the court may order that the resulting costs are not to burden the estate but that they are instead to be paid by the petitioner or, if there is more than one petitioner, by them in proportion to their shares of the estate.

### Section 19

- (1) The estate administrator shall observe all care in his or her duties; he or she shall compensate for any loss or damage that he or she has caused deliberately or through negligence to the estate or to a person whose right is dependent on the settlement of the estate. However, if the estate administrator is guilty of slight negligence only, the compensation may be adjusted or he or she may be entirely relieved of the liability, if this is deemed reasonable with regard to the extent of the loss or damage and the other circumstances.
- (2) If several estate administrators are liable, the provisions in chapter 18, section 7(2), apply correspondingly.

### Section 20

- (1) The estate administrator is entitled to a fee to be paid from the assets of the estate, as is reasonable with regard to the type and extent of the estate and the work involved in fulfilling the duties, as well as to compensation for his or her expenses. If the assets of the estate are not sufficient for payment, the fee and compensation shall be paid by the person on whose petition the estate administrator was appointed. If several persons are liable, their liability shall be joint and several.
- (2) The provisions on an action against a trustee apply correspondingly an action involving the administration of an estate. The person who contested the administration is entitled to compensation from the estate for his or her costs if the assets acquired to the estate through the proceedings are sufficient for this or it is otherwise deemed reasonable.

### Section 21

- (1) Unless the testament indicates otherwise, the executor of the testament shall have the same competence as an estate administrator, except that he or she is not entitled to surrender the estate into bankruptcy. The competence of the executor shall not preclude the right of the surviving spouse to participate in the settlement of the estate. The above provisions on the administration, liability and discharge of an estate administrator and on his or her right to a fee apply correspondingly to the executor of a testament.
- (2) If the executor of a testament is appointed as the estate administrator, this shall not limit the right that he or she may have on the basis of a testament that has become finally enforceable.

### Section 22

- (1) The order of a court or judge referred to in section 11(1) and the order of the court in a matter referred to in section 17 shall not be subject to appeal. An order by the Court of Appeal in a matter referred to in sections 1, 5—7 and 18 shall likewise not be subject to appeal.
- (2) A court order in a matter other than those referred to in section 7 shall be observed regardless of appeal.

## Chapter 20 — **Estate inventory**

### Section 1 (1562/1995)

The estate inventory shall be taken within three months of the death, unless the competent Regional Tax Office, upon a request made within the same period, grants an extension to the time limit on the basis of the nature of the estate or another special reason.

### Section 2

- (1) The shareholder administering the property of the estate, the estate administrator or the executor of a testament shall set the time and place of the estate inventory and select two trustees to take the inventory. If a shareholder, estate administrator or executor has not taken over the administration of the

estate, a person who, in the manner stated in chapter 18, section 4, has taken possession of the property shall have the estate inventory taken.

- (2) The shareholders and the surviving spouse, even when the latter is not a shareholder, shall, if possible without undue inconvenience, be notified of the time and place of the inventory well in advance thereof, and, if someone is to receive a share in the estate as an inheritance or under a testament only after the right of a previous shareholder has lapsed, also the person who at the time of the inventory is next in line to the inheritance or as beneficiary under the testament shall be thus notified.

### Section 3

- (1) The inventory deed shall state the time and place of the estate inventory, the full name, occupation and place of residence as well as the dates of birth and death of the decedent, the names and places of residence of the shareholders and the other persons referred to in section 2(2) and, in addition, in respect of minors, their dates of birth and, in respect of heirs, how they are related to the decedent. An heir shall be mentioned even if he or she is not to receive anything from the estate. If an item of information mentioned above cannot be stated, this shall be noted in the inventory deed and the reason for the same supplied.
- (2) The inventory deed shall state those present at the estate inventory. If a person referred to in section 2(2) was not notified of the inventory, this shall be stated in the inventory deed and the reason for the same supplied. If a person who was notified was not present, the inventory deed shall state when and how he or she was notified.

### Section 4

- (1) The assets and debts of the estate shall be noted in the inventory deed as at the time of the death, together with the value of the assets.
- (2) If the decedent was survived by a spouse, also the assets and debts of the latter shall be noted in the inventory deed. If either of the spouses had property to which the other had no marital right, the inventory deed shall note the basis for this. If the spouses had joint property or joint debt, the inventory deed shall state the share of both parties therein.
- (3) The inventory deed shall in addition state an advancement and other property that does not belong to the estate but is to be taken into account in determining the amount of the lawful share of an heir.

### Section 5

If the decedent has made a testament or a marriage settlement agreement, the said document shall be included in or a certified copy thereof appended to the inventory deed. The same applies to other documents necessary in order to establish the status of the estate. In addition, an extract from the parish register or another population register, indicating the surviving spouse and the heirs, shall be appended to the inventory deed.

### Section 6

- (1) The estate shall be reported by the person who is taking care of the property of the estate or is otherwise best acquainted with its status. A shareholder and the surviving spouse, even if the latter is not a shareholder, shall provide information for the inventory on request.
- (2) The person reporting the estate shall enter into the inventory deed an affidavit to the effect that the information he or she has given in respect of the estate is correct and that he or she has not deliberately left anything unreported. He or she shall be obliged to confirm the affidavit under oath if so required by a person whose right may depend on such an oath, by the estate administrator or by the executor of the testament. A shareholder and a surviving spouse, who has not reported the estate, may also be required to swear an oath. If some other person has undertaken acts involving the property of the estate, he or she may also, if necessary, be required to swear an oath.

- (3) The trustees shall certify in the inventory deed that they have noted everything in it correctly and appraised the assets of the estate to the best of their ability.

#### Section 7

If property is located in more than one municipality, a separate estate inventory may be carried out in each. A combination of the assets and debts of the estate shall be taken into one inventory deed, and the provisions in sections 4(3) and 5 apply only to this inventory deed.

#### Section 8 (1562/1995)

The inventory deed shall be submitted to the Regional Tax Office, as provided in the Gift and Inheritance Tax Act (378/1940).

#### Section 9 (1562/1995)

If no one has had the estate inventory taken, the District Court shall appoint, on notification by the Regional Tax Office, a suitable person to have the inventory taken.

#### Section 9a (733/1994)

- (1) On the request of a shareholder in a decedent's estate, the surviving spouse, the person taking care of the estate, the estate administrator, the estate distributor, or the executor of the testament, the Register Office referred to in the Act on Population Register Administration (76/1984) may confirm that all shareholders and the spouse of the decedent have been stated in the inventory deed, as provided in section 3(1).
- (2) The confirmation shall be issued by the Register Office in whose district the decedent resided at the time of his or her death. The confirmation shall be issued if, on the basis of the information in the population information system or other available information, there is reason to believe that the information in the inventory deed is correct and complete.
- (3) The Register Office shall make a note of the confirmation on a certified copy of the inventory deed.

#### Section 9b (733/1994)

If the confirmation referred to in section 9a cannot be issued, the Register Office shall notify the defects and errors it has observed to the person who made the request, and return the documents to him or her unconfirmed. The person who is named in the inventory deed as the addressee for notifications involving the estate shall likewise be notified of the same.

#### Section 9c (733/1994)

- (1) A transaction in the name of the estate, entered into by the shareholders in the estate as stated in an inventory deed certified by the Register Office and a third party, shall be binding even if a shareholder has been omitted from the inventory deed, provided that the third party did not know nor should have known of the existence of that shareholder.
- (2) When the registration of a right or some other official act is requested of an authority, a certified inventory deed shall be considered a sufficient account of the shareholders in the estate, unless something else is apparent in the matter.

#### Section 10

If, after the estate inventory, new assets or debts are discovered, a supplementary or amending inventory deed shall be drawn up within a month. The provisions on inventory deeds apply, in so far as appropriate, to the same.

#### Section 11

A person who deliberately conceals or fraudulently reports something in an estate inventory shall be sentenced to a fine or to imprisonment for at most six months. Under extremely aggravating circumstances, the penalty shall be imprisonment for at most two years.

#### Section 12 (1562/1995)

A decision of the Regional Tax Office referred to in section 1 shall not be subject to appeal.

#### Section 12a (1562/1995)

An inventory deed submitted to the Regional Tax Office, or a technical record of the same, shall be archived permanently. The archival service shall issue more detailed instructions on the archiving of inventory deeds and the annexes thereof.

#### Section 13

In addition to the provisions in this chapter, the separate provisions on estate inventories for the purpose of levying inheritance taxes apply.

### Chapter 21 — **Debts of the decedent and the estate**

#### Section 1

- (1) If the property of the estate is not surrendered to an estate administrator or into bankruptcy upon a petition filed within one month of the estate inventory, a shareholder shall be liable for the debts of the decedent that he or she knew of at the time of the inventory.
- (2) If a new debt is discovered after the estate inventory and the property of the estate is not surrendered in the manner referred to in paragraph (1) within one month of the same, the shareholder shall be liable also for this debt.

#### Section 2

- (1) If the estate is surrendered upon a petition that is filed later than one month of the inventory of the estate, a shareholder shall be liable to pay into the estate an amount by which the debts that he or she knew of one month before the petition was filed exceeded the value of the property and the other available assets, in which event he or she shall no longer be liable to private creditors under section 1.
- (2) On the demand of a creditor, a shareholder shall swear under oath that he or she did not know of the debt in question one month before the petition was filed. If he or she cannot swear the oath, he or she shall be deemed to have previously known of the debt.

#### Section 3

When a shareholder has filed a petition for the surrender of the estate into bankruptcy, but, at the latest at the hearing of the creditors in the bankruptcy proceedings, another petition is filed for the estate to be surrendered to an estate administrator, the court may grant the latter petition if deemed appropriate.

#### Section 4

If a shareholder has justified reason to assume that he or she will not become liable for payment on the basis of the decedent's personal guarantee or other specific commitment, this debt shall not be considered a known debt.

#### Section 5

If the petition of a shareholder for the surrender of the estate into bankruptcy lapses because the estate is instead surrendered to an estate administrator, the petition regarding the estate administration shall be deemed filed on the date when the petition regarding bankruptcy was filed.

#### Section 6

- (1) If the surrender of the estate takes place after the distribution of matrimonial property or the distribution of the estate has been carried out, the distribution shall be reversed.
- (2) If a debt can be paid from the property belonging to the decedent and from what he or she would have received of the property of the other spouse if the debt had

been taken into consideration in the distribution of matrimonial property, only an amount deemed necessary by the estate administrator for the payment of the debts and the administration costs need be handed over to him or her. The shareholders shall pay the amount necessary for this in proportion to the excess that they have received in the distribution of matrimonial property or the distribution of the estate. In other respects, the distribution of matrimonial property and the distribution of the estate shall stand.

- (3) If a shareholder is unable to pay his or her share, the others shall cover the shortage with property they have received in the distribution of matrimonial property or the distribution of the estate, or with the value thereof.

#### Section 7

Property received from the estate as a bequest or on the basis of a testamentary condition shall be returned to the extent that it is needed to cover a debt. If the property no longer remains, compensation up to the value thereof shall be paid unless there are specific reasons to the contrary.

#### Section 8

The liability to return property under sections 6 and 7 applies also to any interest or proceeds therefrom. However, the person liable to return property shall be compensated for any necessary expenses and, if he or she was in good faith, also for any useful expenses.

#### Section 9

- (1) Before the end of the time limit provided in section 1(1) or, when the estate is being administered by an estate administrator, before an agreement on the satisfaction of the creditors is reached, a debt of the decedent shall be paid from the assets of the estate only when it is justified to assume that the payment of the debt will not result in detriment to the other creditors. During the said period, a distraint of the property of the estate shall not be completed, unless the creditor has a right to the distrained property under a lien or right of retention.
- (2) If a shareholder has entered into debt for the purposes referred to in chapter 18, section 5 or 6(2), while the estate was being administered by the shareholders, the creditor may claim payment of such a debt also from the estate. If a shareholder has used his or her own assets for such a purpose, he or she shall have a right to compensation from the assets of the estate.

#### Section 10

- (1) Once the time limit provided in section 1(1) has ended, a creditor may require security for a debt owed by the deceased which has not matured and which is not covered by sufficient security. If no security is given within three months, the debt shall then be deemed to have matured.
- (2) If the decedent owed a debt that will not mature within six months, and if there are several shareholders, the said debt may be terminated by the estate in six months from the notice of termination. However, a creditor whose claim is secured by a registered mortgage need not accept payment before the date of maturity if, within three months of the notice of termination, he or she states that he or she will claim payment on the debt only from the property that stands as security for it.

#### Section 11

If the shareholders have, contrary to section 9, paid a debt or, within the period referred to in section 1 for the surrender of the property, fulfilled a bequest or testamentary condition to the detriment of creditors, or sold, pledged or in another way used or disposed of the property of the estate, they shall be liable for the debts of the decedent which they knew at the time or of which they were informed no later than at the estate inventory taken thereafter. If the measure referred to herein has given rise only to minor loss or damage or if it was undertaken through thoughtlessness or with inexact knowledge of the status of the estate, only that loss or damage shall be compensated for.

#### Section 12

If the distribution of matrimonial property or the distribution of the estate is carried out before all of the debts are paid, a shareholder who has participated in the distribution or taken possession of the property devolving on him or her in the distribution shall be liable for the debts of the decedent which he or she knew of at the time or of which he or she was informed no later than at the estate inventory taken thereafter. However, a distribution of matrimonial property shall not result in this sanction if the surviving spouse did not receive anything from the property of the decedent.

#### Section 13

If, on petition of the shareholders, the administration of the estate administrator is terminated before the debts have been paid, it shall be deemed, with regard to liability, that the estate was not surrendered to the estate administrator in the first place.

#### Section 14

If the shareholder taking care of the estate fails to have the estate inventory taken within the due time, he or she shall be liable for all the debts of the decedent. The same applies if a shareholder, at the estate inventory or in confirming the inventory deed under oath, knowingly reports something falsely or deliberately fails to report a circumstance in his or her knowledge and in so doing compromises the right of the creditors.

#### Section 15

If a shareholder is liable for the debts of the decedent he or she shall also be liable for the debts of the estate. In the case referred to in section 2(1) the shareholder shall pay into the estate a sum corresponding to a debt incurred for the estate before it was handed over or surrendered.

#### Section 16

The provisions in sections 1, 2 and 11—15 on the liability of a shareholder for debts do not apply to a shareholder without legal capacity nor to a shareholder represented by a trustee. The guardian or the trustee shall be liable for the loss or damage that his or her actions or omissions have caused to the creditors of the estate.

#### Section 17

If several persons are liable for a debt or loss or damage under this chapter, their liability shall be joint and several. What one person has paid shall, to the extent that compensation therefor is not paid from the assets of the estate, be apportioned among those liable in accordance with the principles provided in chapter 18, section 7(2).

#### Section 18

If a shareholder has received no benefit from the estate nor undertaken any measures with regard to the estate, other than those that he or she is obliged to undertake under chapter 18, section 3, and has participated in the estate inventory, he or she shall be free of any liability arising from a failure to hand over or surrender the estate.

#### Section 19

If the estate of the decedent contains no more property than what is needed for reasonable burial and inventory costs, the provisions in this chapter on liability for a debt of the decedent do not apply. In addition, the court may, when appropriate under the circumstances, relieve a shareholder of liability for the debts of the decedent even if the assets of the estate slightly exceed the costs mentioned.

## Chapter 22 — **Execution of bequests and testamentary conditions**

### Section 1

- (1) A bequest that is to be fulfilled from an undistributed estate shall be executed as soon as this can be done without causing detriment to anyone whose right is dependent on the settlement of the estate.
- (2) If the distribution of the estate is carried out before the bequest referred to in paragraph (1) has been executed or the property required for this has been placed into special care, the shareholders shall be jointly responsible for the execution of the bequest as if the distribution had not been carried out. What the shareholders are thereupon required to pay shall be apportioned among them in accordance with the provisions in chapter 18, section 7(2).

### Section 2

If a bequest is to be executed by an heir or a beneficiary under a testament, he or she shall execute the bequest upon receipt of the property intended for this purpose. If, as a result of his or her neglect, he or she has not received this property, he or she shall compensate for the loss or damage.

### Section 3

If property that has been stipulated to someone as a bequest is taken care of negligently or if the right of the beneficiary is otherwise compromised, and if sufficient security has not been given for the execution of the bequest, the court may order that the property be placed under special care. The court order shall be observed regardless of appeal.

### Section 4

Where the bequest encompasses specific property, the beneficiary under the bequest shall, unless otherwise stipulated in the testament, have the right to the proceeds of the property, but before the property is given to the beneficiary, he or she must pay the necessary expenses arising from the property unless these have arisen from the settlement of the estate.

### Section 5

The beneficiary of a bequest of a specific sum of money shall, unless otherwise stipulated in the testament, receive annual interest of five per cent as from four months after the death of the testator.

### Section 6

The provisions in this chapter on a bequest apply correspondingly to a testamentary condition.

### Section 7

- (1) If the execution of a testamentary condition has been neglected, every person whose right may be dependent on the execution of the condition, as well as the estate administrator, the executor of the testament, the surviving spouse and also an heir or universal beneficiary under the testament, and the descendant of an heir or of a universal beneficiary, may bring an action regarding the said neglect. An heir shall may bring an action also when he or she has no share in the estate.
- (2) If the testamentary condition is intended for the benefit of the public, the State Provincial Office in the province where the execution is primarily to take place may appoint a suitable person to bring the action.

## Chapter 23 — **Distribution of an estate**

### Section 1

- (1) Once the estate has been settled, each shareholder in the estate may demand the distribution of the estate.

- (2) If the decedent was married, the distribution of matrimonial property shall be carried out before the distribution of the estate.

#### Section 2

- (1) The distribution shall not be carried out contrary to the prohibition of a shareholder until the estate inventory has been taken and all known debts have been paid or the funds needed for their payment have been placed into special care.
- (2) If a bequest or a testamentary condition is to be executed from an undistributed estate, the distribution shall not be carried out contrary to the prohibition of a shareholder before the bequest or condition has been executed or the property required therefor has been placed into special care.
- (3) If the estate is being administered by an estate administrator or an executor, the distribution shall not be carried out until he or she has reported that the settlement of the estate has been completed.

#### Section 3 (1153/1995)

- (1) The shareholders may distribute the estate in any way they agree. However, if a shareholder is without legal capacity or otherwise represented by a guardian in the distribution of the estate, the provisions in section 34(1)(9) of the Guardianship Act shall be observed.
- (2) If the share of a shareholder has been distrained or if a shareholder so demands, the distribution shall be carried out by an estate distributor.

#### Section 4

- (1) The court shall appoint, on petition, a suitable person as the estate distributor. If necessary in view of the type or extent of the estate or for another special reason, several estate distributors may be appointed. A copy of the inventory deed shall be appended to the petition.
- (2) If the court is not in session, the district judge may issue the order referred to in paragraph (1) if the shareholders are agreed on the person to be appointed as the estate distributor.
- (3) An estate administrator or an executor of the testament, who is not a shareholder, shall act as distributor without special appointment if the shareholders request that he or she distribute the estate and no other distributor has been appointed.
- (4) The distributor is entitled to receive, from the assets of the estate, a fee reasonable in regard to the type and extent of the estate and of the work involved, as well as compensation for his or her expenses.

#### Section 5

If the distributor is found unsuitable for the task, he or she shall be dismissed by the court on the petition of a person whose right is dependent on the distribution of the estate. The same applies if the distributor is to be dismissed for some other reason.

#### Section 6

- (1) Before the appointment or dismissal of the estate distributor, the court or the judge shall reserve the shareholders an opportunity to express their opinions in the matter.
- (2) No one shall be appointed as estate distributor against his or her will, nor shall a distributor be dismissed without being reserved an opportunity to be heard in the matter.

#### Section 7 (1153/1995)

- (1) The estate distributor shall set the time and place for the distribution, and verifiably invite the shareholders to the distribution. If all shareholders arrive for the distribution, the estate distributor shall try to have them agree on the distribution. If an agreement is reached, the distribution shall proceed accordingly.

- (2) If a guardian has entered into an agreement referred to in paragraph (1) on behalf of a shareholder, the distribution may proceed according to the agreement if the estate distributor considers this to be in the best interests of the ward.

#### Section 8

- (1) If a shareholder who has received an invitation in time fails to arrive for the distribution or if the distribution of the estate for another reason cannot be carried out according to the agreement of the shareholders, the estate distributor shall carry out the distribution by giving each shareholder a share of all types of property in the estate. However, property which cannot suitably be divided into shares or separated shall, if possible, be allotted into the same share. If the assets of the estate include a receivable from a shareholder, the said receivable shall be allotted to him or her to the extent that his or her share is sufficient therefor. In addition, the provisions in chapter 25 apply to the distribution of a farm that belongs to the estate. (637/1982)
- (2) If the distribution cannot otherwise be carried out, the court may, upon the petition of the estate distributor, order that certain property or, if necessary, the entire property in the estate be sold by the distributor.

#### Section 9

- (1) A distribution deed shall be prepared of the distribution of the estate. If the distribution has been carried out by an estate distributor, he or she shall sign the distribution deed. In other cases, the distribution deed shall be signed by the shareholders and attested by two qualified witnesses.
- (2) The estate distributor shall without delay deliver a copy of the distribution deed to each shareholder.

#### Section 10

- (1) A shareholder who wishes to contest a distribution carried out by an estate distributor shall bring an action against the other shareholders within six months of the distribution.
- (2) The same applies if the shareholders have carried out the distribution of the estate and a shareholder wishes to contest the distribution on the basis that it was not carried out according to the proper forms.

#### Section 11

If a third party sues for property allotted to a shareholder as his or her inheritance, the shareholder shall notify the other shareholders of the same. The said shareholder may require equalisation from the other shareholders for whatever he or she loses to the plaintiff. If a shareholder loses all or most of the property he or she received in the distribution, the estate shall be redistributed. If, however, another shareholder has improved his or her share at great expense or lawfully transferred it to someone else, he or she may substitute other property instead.

#### Section 12

- (1) The provisions in this chapter on shareholder apply correspondingly to a person to whom a shareholder has transferred his or her share in the estate and to a creditor referred to in chapter 19, section 2(2), for whose claim the share of a shareholder in the estate had been distrained.
- (2) In order to enforce on a claim for support, a petition for the appointment of an estate distributor may also be filed by a person entitled to support who is not a shareholder in the estate, as well as by the surviving spouse who is not a shareholder in the estate in order to enforce on his or her right provided in chapter 3. (209/1983)

#### Section 13

The decision of the court under section 5 or of the judge under section 4(2) shall not be subject to appeal. The decision of the Court of Appeal on the matter referred to in section 4(1) shall likewise not be subject to appeal.

## Chapter 24 — **Joint administration of an estate upon agreement**

### Section 1

- (1) If the shareholders have agreed that, in the common interest of the shareholders, the estate is to remain undistributed until further notice or for a given period, the provisions in chapter 18, section 2, apply to the administration and representation of the estate, unless it is otherwise agreed.
- (2) No agreement on joint administration shall be made if the estate is being administered by an estate administrator, or by an executor of a testament who is not competent under the testament to accept such an agreement.

### Section 2

If the proceeds of the estate need not to be used for the costs of a common household or otherwise on behalf of all the shareholders, each shareholder may, at the end of each calendar year, request that the net proceeds be distributed.

### Section 3

If the agreement has not been made for a given period, each shareholder may at any time give notice of the termination of the agreement. If such notice has been given, the agreement shall, unless it has been otherwise agreed, expire three months after the notice. The same applies if the agreement has been made for a given period and the joint administration has continued for longer than that.

### Section 4

- (1) If the surviving spouse, who has been a party to an agreement made for a specific period, concludes a new marriage, or if a shareholder dies and he or she is replaced as shareholder in the estate by a person who is not a party to the agreement, the agreement shall expire three months after a notice of termination. If there are heirs who have not attained their majority, the provisions of the Guardianship Act for such an eventuality shall be observed.
- (2) If a guardian or trustee has been a party to the agreement, the person on whose behalf the agreement was made shall have the right to give the notice referred to in paragraph (1) after the termination of the guardianship or of the functions of the trustee.

### Section 5

If an agreement on joint administration has been made for a given period and there is an essential change in the circumstances that have decisively influenced the making of such agreement, or if there otherwise is a special reason, the court may, on the petition of a party, order that the agreement has ceased to be in effect.

### Section 6

- (1) Notice of termination of an agreement on joint administration may be given, as provided in section 4, if a party becomes bankrupt; and the agreement shall lapse if an estate administrator is appointed.
- (2) The estate shall not, upon petition of a shareholder, be ordered to be administered by an estate administrator during the period an agreement on joint administration is in effect.

### Section 7

The provisions in chapter 18, section 7, and chapter 21, sections 15 and 17, apply to a debt assumed by a shareholder during joint administration and to loss or damage incurred during such time.

## Chapter 25 — **Distribution of an estate comprising agricultural property** (637/1982)

### Section 1 (612/1989)

- (1) The provisions in this chapter apply to the distribution of an estate comprising a farm, other real property or a part of real property in agricultural use, unless it is otherwise stipulated in a testament or unless the shareholders in the estate agree otherwise.
- (2) The provisions in this chapter do not apply, if the farm, the real property or the part of real property is fully or mainly located in an area where a town plan is in effect or which is subject to a building moratorium pending the completion or amendment of a town plan or which has been designated for some other purpose than agriculture and forestry in a building plan or confirmed master plan.
- (3) Where a plan referred to in paragraph (2) has effect only on a part of the farm, real property or part of real property, the provisions in this chapter apply to the remainder, provided that the requirements laid down in section 1b are met.
- (4) Unless otherwise follows from chapter 7, section 8, an heir is entitled to his or her lawful portion of the estate notwithstanding the provisions in this chapter. The amount corresponding to the lawful share or the missing part thereof may be paid out in money.

### Section 1a (612/1989)

For the purposes of this chapter:

- (1) *farm* is defined as an agricultural entity consisting of one or more pieces of real property or parts thereof;
- (2) *viable farm* is defined as a farm which suffices as the main livelihood of the farmer and his or her family;
- (3) *part of real property* is defined as a share in, or a parcel of, real property; and
- (4) *suitable agricultural successor* is defined as an heir or a universal beneficiary under a testament who has this status at the time of distribution and who has the necessary professional competence to pursue an agricultural business.

### Section 1b (612/1989)

- (1) A suitable agricultural successor has the right to demand that a viable farm belonging to the decedent's estate, or such real property or parts of real property belonging to the decedent's estate which by themselves or together with other real property or parts of real property owned by the successor or his or her spouse constitute a viable farm, be allotted undivided, and with any agricultural movables, into his or her share of the estate.
- (2) A suitable agricultural successor has the same right also in the event that the estate comprises only a part of a viable farm or only a part of such a farm or real property which together with other real property or parts of real property owned by the successor or his or her spouse constitute a viable farm, provided that the remainder is owned by the surviving spouse and that the suitable agricultural successor is an heir of also that spouse. However, it is a prerequisite for this that the surviving spouse and the suitable agricultural successor agree on the farming arrangements, no later than in the distribution of the estate and for a period of no less than ten years, to the effect that they will work the farm or real property as a common concern or that the suitable agricultural successor is entitled to work the surviving spouse's part of the farm or real property. The surviving spouse and the suitable agricultural successor may also agree that they will work the farm as a common concern for a part of the period of validity of the agreement and that, for the remainder of the period, the successor is entitled to work the farm as referred to above.
- (3) An agreement on farming arrangements, as referred to in paragraph (2), may be concluded also for a period shorter than ten years, if it is at the same time agreed

that the surviving spouse is to sell or otherwise convey his or her part to the suitable agricultural successor at once after the expiration of the period of validity of the agreement. A contract on the conveyance of real property shall be concluded in accordance with the pertinent provisions in the Code of Real Estate.

- (4) Notwithstanding the provisions in section 71 of the Land Lease Act (258/1966) on the maximum lease periods for agricultural land, in the context of an agreement on farming arrangements it may be agreed that a lease of agricultural land is to run for 15 years.

#### Section 2 (637/1982)

- (1) If a suitable agricultural successor is allotted a farm, real property or a part of real property in accordance with section 1b, and unless the shareholders agree on some other value, the value of the same shall be deemed to be the value calculated in accordance with sections 124—128 of the Income and Wealth Tax Act (1240/1988), multiplied by 1.2, once the value of the agricultural land has been included 3.75-fold. An eventual tax exemption of forest land shall not be taken into account as a value subtrahend. This calculated value shall then be increased or decreased as is necessary on the basis of the special characteristics of the farm, real property or part of real property, such as the exceptional value of the growing stock or the buildings, or other circumstances. The agricultural successor to whom the farm, real property or part of real property has been allotted in accordance with the provisions in this chapter, shall compensate, in money, the other heirs or universal beneficiaries with an amount corresponding to their shares or the shortfall thereof. The estate administrator shall set a reasonable grace period, not to exceed two years, for the payment of the compensation or a part thereof by the agricultural successor. The compensation shall accrue interest, at a rate corresponding to the basic rate of the Bank of Finland in force at any given time, as from the date when the distribution of the estate becomes legally enforceable. Any arrears shall be subject to the statutory overdue interest. (612/1989)
- (2) Once the distribution has become legally enforceable, an heir or universal beneficiary under a testament entitled to a payment of money may, as security for his or her claim, without hearing the owner of the farm, apply for the registration of a mortgage on the farm or the part thereof that was the object of the distribution.

#### Section 3

- (1) If several suitable agricultural successors demand that a farm, real property or part of real property be allotted into their share in accordance with the provisions in this chapter, preference shall be given to the person with the highest professional competence to pursue an agricultural business. (612/1989)
- (2) However, a suitable agricultural successor who has clearly better chances to engage in another occupation or otherwise to earn his or her and his or her family's livelihood off the farm shall not be preferred over a person who does not have corresponding abilities and earning potential if the latter has sufficient professional competence to pursue an agricultural business.
- (3) However, a suitable agricultural successor who resides permanently on a farm belonging to the estate and participates in the farming, shall be preferred, notwithstanding the provisions in paragraphs (1) and (2), over a suitable agricultural successor who does not reside permanently on the farm. (612/1989)
- (4) If the order of preference among suitable agricultural successors cannot be determined by reference to paragraphs (1)—(3), the matter shall be decided by drawing lots.

#### Section 4 (612/1989)

- (1) If, in addition to the agricultural successor, also another heir or universal beneficiary under a testament who has this status at the time of distribution has sufficient professional competence to pursue an agricultural business, land may be separated for this heir or beneficiary in the distribution under the conditions

laid down in section 2, for purposes of forming an independent viable farm. However, this procedure is available only if the separation of land does not result in the suitable agricultural successor or the person receiving land under this paragraph being disqualified, in respect of the farms thereby formed, from subsidy measures under the Act on the Financing of Agricultural Business (328/1999) or the corresponding Åland legislation. (340/1999)

- (2) Notwithstanding the provisions in section 1b, the estate distributor may decide that land is to be given also to the other shareholders. However the separation of land must not result in the suitable agricultural successor or the person receiving land under paragraph (1) being disqualified, in respect of the farms thereby formed, from subsidy measures under the legislation referred to in paragraph (1). (340/1999)

*Section 5 has been repealed.*

#### Section 6 (612/1989)

An agricultural successor or an heir or universal beneficiary under a testament, as referred to in section 4(1), who has been allotted a farm, real property or a part of real property in accordance with section 1b or 4(1), for the value referred to in section 2, shall be under the obligation to self farm it and to take regular part in the work.

#### Section 7 (612/1989)

- (1) If an agricultural successor or an heir or universal beneficiary under a testament, as referred to in section 4(1), who has been allotted a farm, real property or a part of real property in accordance with section 1b or 4(1), for the value referred to in section 2, conveys the same or an essential part of the same to someone else than a direct descendant or the spouse of a direct descendant before the lapse of ten years of the distribution of the estate, he or she shall be liable to compensate the other heirs and universal beneficiaries for the share that they would have received from the conveyance price, less the value of the farm, real property or part of real property according to section 2. However, if the conveyance price is essentially lower than the going value at the time of conveyance, the agricultural successor or the heir or universal beneficiary under a testament, as referred to in section 4(1), shall be liable to compensate the other heirs and universal beneficiaries for the share that they would have received from the going value, less the value of the farm, real property or part of real property according to section 2.
- (2) If, during the period referred to in paragraph (1), the agricultural successor of the heir or universal beneficiary under a testament, as referred to in section 4(1), for a reason other than ill health or similar special circumstances, assigns the right to work the said farm, real property or part of real property to someone else than his or her spouse, direct descendant or the spouse of a direct descendant, or otherwise fails to comply with the obligations laid down in section 6, he or she shall be liable to compensate the other heirs and universal beneficiaries for the share that they would have received from the going value, less the value of the farm, real property or part of real property according to section 2. The going value shall be determined as at the time when the claim for compensation was made.
- (3) The provisions in paragraphs (1) and (2) on the agricultural successor and the heir and universal beneficiary under a testament, as referred to in section 4(1), apply also to their direct descendants and spouses of direct descendants, to whom the successor, heir or beneficiary has during his or her lifetime conveyed, in full or in part, the farm, real property or part of real property in question.

#### Section 7a (612/1989)

- (1) In the calculation of the compensation referred to in section 7, the increases or decreases of value ensuing from the measures of the farmer shall be taken into account.

- (2) However, the provisions in section 7 on liability do not apply if the conveyance has been based on expropriation or comparable proceedings, or if the farm, real property or part of real property has been sold or otherwise conveyed voluntarily, without such proceedings, for a purpose that would have legitimised its expropriation as well.
- (3) An action for compensation under section 7 shall be brought within six months of the heir or universal beneficiary under the testament being notified of the conveyance or the failure to comply with an obligation laid down in section 6, and in any event no later than five years after the conveyance or the beginning of the failure.

#### Section 8 (612/1989)

- (1) Before the final distribution of an estate where the provisions in this chapter are applied, the estate distributor shall, if necessary or if a shareholder so requests, obtain an opinion from the Rural District where the farmhouse of the farm belonging in full or in part to the estate is located, as to:
  - (1) whether the farm belonging to the estate suffices as the main livelihood of the farmer and his or her family, or whether the real property or parts of real property belonging to the decedent's estate by themselves or together with other real property or parts of real property owned by the successor or his or her spouse or, in cases referred to in section 1b(2), the surviving spouse, constitute an agricultural entity which suffices as the main livelihood of the farmer and his or her family;
  - (2) whether a person who wishes to have a farm, real property or part of real property allotted to his or her share of the estate in accordance with this chapter has sufficient professional competence to pursue an agricultural business;
  - (3) which one of several suitable agricultural successors who wish to have a farm, real property or part of real property allotted to their share of the estate in accordance with this chapter has the highest professional competence to pursue an agricultural business;
  - (4) whether land can in the distribution be separated from the farm to the other shareholders, in view of the provisions in section 4; and
  - (5) what is the going value of a farm, real property or part of real property belonging to the estate and what is the calculated value under section 2.
- (2) If a shareholder disagrees with the opinion of the Rural District, he or she may, within one month of being verifiably notified of the opinion, request an opinion from the National Board of Agriculture on issues referred to in paragraph (1). The Board shall send the opinion to the requesting shareholder and to the estate distributor.
- (3) The Rural District and the National Board of Agriculture shall issue their opinions, referred to in this section, as a matter of urgency.

#### Section 9 (612/1989)

In the distribution of matrimonial property or the separation of the property of the spouses, carried out between the surviving spouse and the common heirs of the decedent and the surviving spouse, a surviving spouse who is also a shareholder in the decedent's estate is entitled to demand that a farm, real property or part of real property be allocated to his or her share, provided that he or she has sufficient professional competence to pursue an agricultural business. In this event, the distribution or separation procedure shall be governed by the relevant provisions elsewhere and also, in so far as appropriate, by the provisions in this chapter.

#### Section 10

More detailed provisions on the application of section 8 of this chapter shall, if necessary, be issued by Decree.

## Chapter 26 — **Rules of Private International Law** (1228/2001)

### *Jurisdiction of Finnish courts*

#### Section 1 (1228/2001)

- (1) A Finnish court shall be competent to appoint an estate administrator or estate distributor if:
  - (1) the decedent was domiciled or habitually resident in Finland at the time of the death;
  - (2) the decedent was a Finnish citizen and he or she had stipulated that Finnish law was to apply to the inheritance;
  - (3) the decedent was a Finnish citizen and the estate is not settled nor distributed in the state where he or she was domiciled or habitually resident;
  - (4) the decedent left property in Finland and, in respect to that property, the estate is not settled nor distributed in the state where he or she was domiciled or habitually resident; or
  - (5) the decedent left a farm referred to in chapter 25 in Finland and Finnish law is to apply to the inheritance.
- (2) A Finnish court may appoint an estate administrator also if the decedent left property in Finland and the appointment of the estate administrator is necessary for the safeguarding of the right of a creditor or a beneficiary under a bequest.

#### Section 2 (1228/2001)

- (1) A Finnish court shall be competent in a matter of inheritance, other than one referred to in section 1, if:
  - (1) the decedent was domiciled or habitually resident in Finland at the time of the death; or
  - (2) the matter concerns a measure to be undertaken by an estate administrator or estate distributor appointed by a Finnish court.
- (2) A matter concerning the supplementing of a lawful share, the return of an advancement, the validity of a testament or a comparable issue may be ruled admissible by a Finnish court also if the defendant is domiciled or habitually resident in Finland.

#### Section 3 (1228/2001)

Even if a Finnish court is not competent under sections 1 and 2, it may rule a matter of inheritance admissible, if the defendant accepts that the matter be admissible in Finland or undertakes to defend his or her substantive position without entering a plea of inadmissibility, provided that the matter does not involve the right of a third party who would have been a party to the case had it been initiated in a state where the decedent was domiciled or habitually resident at the time of the death.

#### Section 4 (1228/2001)

In addition to what is provided in sections 1—3, a Finnish court is competent to undertake measures for the protection of property belonging to the estate and located in Finland.

### *Choice of law applicable to inheritance*

#### Section 5 (1228/2001)

- (1) Unless the decedent has otherwise stipulated and unless otherwise follows from paragraph (2), inheritance shall be governed by the law of the state where the decedent was domiciled at the time of the death.
- (2) However, if the decedent had previously been domiciled in another state, the law of the state referred to in paragraph (1) is applicable only if:
  - (1) the decedent was a citizen of the latter state at the time of the death; or
  - (2) the decedent had resided in the latter state for at least five years before his or her death.

- (3) If the law referred to in paragraph (1) is not applicable by reason of paragraph (2), the applicable law shall be the law of the state whose citizen the decedent was at the time of the death. If, however, the decedent had an essentially closer connection to a state other than the state of citizenship at the time of the death, taking all circumstances into account, the applicable law shall be the law of the former state.

#### Section 6 (1228/2001)

- (1) The decedent may designate on the law applicable to inheritance, as provided in paragraph (2). In order to be valid, the designation shall be made in the form required of a testament. In the assessment of whether a designation is formally valid, the provisions in section 9 on the form of a testament shall be observed.
- (2) It may be designated that the applicable law is:
- (1) the law of the state whose citizen the decedent is at the time of the designation or at the time of the death; or
  - (2) the law of the state where the decedent is domiciled at the time of the designation or at the time of the death, or where he or she had previously been domiciled.
- (3) Moreover, if the decedent is married at the time of the designation, it may be provided that the applicable law is the law of the state applicable to matrimonial property matters.
- (4) In order to be valid, the revocation of the stipulation shall be made in accordance with the form required of the revocation of a testament.

#### Section 7 (1228/2001)

The following shall be resolved by reference to the law applicable to inheritance:

- (1) the statutory right to inherit and the competence to receive an inheritance or to benefit under a testament;
- (2) the order of succession and shares of inheritance;
- (3) lawful share and a comparable protected share in an estate;
- (4) the inclusion of an advancement and a gift in the distribution of an estate and the duty to return the advancement or gift;
- (5) the forfeiture of the right to inherit, disinheritance and the lapse of the right to inherit owing to the statute of limitations, renunciation or a comparable reason;
- (6) the acceptability, material validity and legal consequences of a testament and another disposition in contemplation of death, as well as the revocation and annulment of such a transaction;
- (7) the right to possess the estate undivided or to possess or use property belonging to the estate or to receive the proceeds of the estate or property belonging thereto; and
- (8) the right to maintenance or support from the estate.

#### Section 8 (1228/2001)

- (1) If the foreign state where real property is located has special legislation governing real property with a view of protecting the pursuit of a business or a profession, or of maintaining the property in the family undivided, or other similar special legislation, that legislation applies even if the law of some other state is otherwise applicable to the inheritance.
- (2) A disposition in a testament or otherwise in contemplation of death conveying real property to an unborn person shall not be complied with, if this would be in violation of the law of the state where the real property is located.

#### Section 9 (1228/2001)

- (1) The form of a testament and the revocation of a testament shall be governed by the provisions in the Act on the Adoption of Certain Provisions in the Convention on the Conflicts of Laws relating to the Form of Testamentary Dispositions and on the Implementation of the Convention (835/1976).

- (2) The provisions of the said Act apply correspondingly also to the form of a renunciation of inheritance, an agreement on inheritance and another transaction in contemplation of death.

Section 10 (1228/2001)

- (1) The decedent shall be deemed to have been competent to make a testament or other dispositions in contemplation of death, if he or she was competent to do so:
- (1) under the law of the state applicable to inheritance; or
  - (2) under the law of the state where the decedent was domiciled or habitually resident at the time of making the testament or disposition, or the law of the state whose citizen the decedent was at the time.

Section 11 (1228/2001)

The law applicable to the right to conclude an agreement on inheritance and to the material validity and legal consequences of such an agreement shall be the law of the state where the decedent was domiciled at the time of conclusion of the agreement. However, if the law applicable to inheritance would at that time been the law of some other state, the law of the latter state shall be applicable to the agreement on inheritance.

*Provisions to be applied notwithstanding the law of a foreign state*

Section 12 (1228/2001)

- (1) Notwithstanding the applicability of the law of a foreign state to inheritance, if the decedent was married at the time of the death, the surviving spouse is entitled to retain possession of the common home of the spouses or other housing belonging to the estate, if located in Finland, as well as of the household effects, as provided in chapter 3, provided that this is to be deemed reasonable in view of the property that the surviving spouse has or that he or she receives in the distribution of matrimonial property or by inheritance or under testament.
- (2) Notwithstanding the applicability of the law of a foreign state to inheritance, a child and the spouse of the decedent may be paid support in accordance with the provisions in chapter 8, sections 1 and 2. When support is to be paid to the spouse, the lawful share of an heir may be encroached upon, if this is necessary in order to have the surviving spouse receive a reasonable share of the property of the spouses. In the assessment of what is reasonable, due note shall be taken of property that the surviving spouse receives in the distribution of matrimonial property or by inheritance or under testament or in accordance with paragraph (1).

Section 13 (1228/2001)

- (1) If the decedent was married at the time of the death, the distribution of the estate may be adjusted on the request of the surviving spouse or an heir, if the result of the distribution of matrimonial property and the distribution of the estate would otherwise be unreasonable by reason of the laws of different states being applicable to the same.
- (2) In the assessment of whether the distribution of the estate is to be adjusted, special attention shall be paid to what would have been the result of the distribution of matrimonial property and the distribution of the estate, had the law applicable to inheritance been the law of the same state as that applicable to matrimonial property regime.

Section 14 (1228/2001)

- (1) If the domicile of the decedent at the time of the death was in Finland, and the estate is under the law applicable to inheritance to devolve on the state or another corporation, or to be used in the benefit of the public, the provisions in chapter 5 apply.
- (2) If the habitual residence of the decedent at the time of the death was in a foreign state, chapter 5 applies to property located in Finland, provided that a Finnish

court would be competent to appoint an estate administrator by virtue of section 1(1)(2)—(4) of this chapter.

### *Settlement and distribution of the estate*

#### Section 15 (1228/2001)

- (1) A settlement and a distribution of an estate carried out in Finland shall be governed by the law of Finland.
- (2) A court may order that an heir or a beneficiary under a testament is to enforce his or her right within the time limit referred to in chapter 16, section 1(2), even if the law applicable to inheritance is that of a foreign state.

#### Section 16 (1228/2001)

- (1) A settlement of the estate shall be carried out in Finland if the decedent was domiciled or habitually resident in Finland at the time of the death. In this event, the settlement shall cover all assets and all debts of the decedent.
- (2) If the decedent was not domiciled or habitually resident in Finland at the time of the death, but the settlement of the estate is nonetheless carried out in Finland, the settlement shall cover only the assets located in Finland. If the decedent was a Finnish citizen, the settlement shall cover also the assets located in a foreign state, provided that the decedent had designated that Finnish law is applicable to the inheritance or that the assets in a foreign state will not be covered by a settlement of the estate in the state where the decedent was domiciled or habitually resident at the time of the death.
- (3) If the settlement of the estate covers only assets located in Finland, the settlement shall likewise cover only debts owed by the decedent to a creditor domiciled in Finland or secured by the assets of the decedent in Finland, and debts specifically declared by the creditor to the estate administrator.
- (4) If the distribution of the estate is not to be carried out in Finland, the estate administrator shall at the conclusion of his or her duties render an account of the administration to the person who is competent to represent the estate in accordance with the provisions applicable in the state where the decedent was domiciled or habitually resident at the time of the death.

#### Section 17 (1228/2001)

- (1) If the decedent was domiciled or habitually resident in Finland at the time of the death, the distribution of the estate shall cover all assets of the decedent, regardless of their location, unless the shareholders in the estate otherwise agree. In the allocation of the shares for the various shareholders, derogations may be made from the provisions of the law applicable to inheritance, if necessary in order to ensure for an heir a legal portion of the property.
- (2) If the distribution of the estate in Finland is based merely on the fact that the decedent left here a farm referred to in chapter 25, the distribution shall cover only that farm and its movables. If the decedent was not domiciled or habitually resident in Finland at the time of the death, the distribution of the estate shall cover only the assets located in Finland. If the decedent was a Finnish citizen, the distribution shall nonetheless cover also assets located in a foreign state, if the decedent has stipulated Finnish law as applicable to the inheritance or if the property in a foreign state will not be covered by a distribution of the estate in the state where the decedent was domiciled or habitually resident at the time of the death.
- (3) If the heirs, by agreement, have distributed property which, under paragraph (2), is not covered by the distribution, a registration of title to real estate may be granted on the basis of the agreement only if the persons who would have had the right to inherit under the law applicable in the state where the decedent was domiciled or habitually resident at the time of the death have approved the agreement.

Section 18 (1228/2001)

The distribution of an estate shall be valid as to its form, if it meets the formal requirements:

- (1) of the law of the state where the distribution of the estate was carried out;
- (2) of the law of the state where the decedent was domiciled or habitually resident at the time of the death or whose citizen he or she was at the time;  
or
- (3) of the law of the state applicable to inheritance in accordance with section 5 or 6.

*Miscellaneous provisions*

Section 19 (1228/2001)

- (1) Unless specifically otherwise provided, a reference in this chapter to the law of a foreign state does not cover the provisions of Private International Law in the law of that state.
- (2) A provision in the law of a foreign state shall be disregarded, if its application would have an outcome contrary to Finnish public policy (*ordre public*).

Section 20 (1228/2001)

The provisions in this chapter apply only in so far as not otherwise provided in another Act or the international obligations binding on Finland.