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# **Act on Guaranties and Third-Party Pledges**

(361/1999)

## Chapter 1 — **General provisions**

### Section 1 — *Scope of application and mandatory provisions*

- (1) This Act applies to guaranties and to pledges for the debt of another person. If there is a provision contrary to this Act in another Act, the provision in the other Act prevails.
- (2) The provisions of the Act apply in so far as it has not been otherwise provided in the undertaking on the guaranty or pledge, in the practice between the parties, in commercial custom, or in another custom binding on the parties.
- (3) However, in the event that a private guarantor or pledgor, as referred to in this Act, gives an undertaking to a lender, the provisions of this Act are mandatory in the favour of the guarantor or pledgor, subject to the exceptions referred to below.

### Section 2 — *Definitions*

For the purposes of this Act,

- (1) *guaranty* is defined as an undertaking where the undertaking party (*guarantor*) promises to answer for the repayment of another person's (*debtor*) obligation (*principal debt*) to a creditor;
- (2) *secondary guaranty* is defined as a guaranty where the guarantor is liable for the principal debt only if the debtor fails to repay;
- (3) *surety* is defined as a guaranty where the guarantor is liable for the principal debt as if it were the guarantor's own;

- (4) *deficiency guaranty* is defined as a guaranty where the guarantor is liable for the principal debt only in so far as it cannot be recovered from property pledged for the principal debt;
- (5) *general guaranty* is defined as a guaranty that covers also debts other than a specified principal debt;
- (6) *private guarantor* is defined as a natural person giving a guaranty; not, however, a person who at the time of giving the guaranty is the managing director, a member of the board, the supervisory board or another comparable body, a general partner or a founder in the debtor corporation or foundation, or a parent corporation; nor a person who holds, directly or indirectly, at least one third of the shares or votes of a company, or has a comparable holding or control in another corporation;
- (7) *lender* is defined as a business, or a person pursuing a business, who in the pursuit of the business issues credit or security against a guaranty or other security;
- (8) *third-party pledge* is defined as an undertaking where the undertaking party (*pledgor*) hands over property (*pledge*) to the creditor as security for the repayment of the obligation of another person; and
- (9) *private pledgor* is defined as a natural person giving a third-party pledge; not, however, a person who is a member of a body of the debtor corporation or foundation, or is the owner or founder of the same, as referred to in subparagraph (6).

## Chapter 2 — **Contents of a guaranty**

### Section 3 — *Contents of a guarantor's liability*

- (1) Unless the guaranty has been given as a surety, or it has been otherwise agreed on the contents of the guaranty, the guaranty shall be deemed to have been given as a secondary guaranty.
- (2) A guaranty given by a private guarantor to a lender shall be a deficiency guaranty, if the main purpose for the principal debt has been to purchase or

repair a home or a leisure home, and that property stands as collateral for the principal debt.

- (3) If several guaranties have been given for the same principal debt, and nothing else has been agreed, each individual guarantor shall be liable to the creditor for the entire principal debt.

#### Section 4 — *Guarantor's liability for costs incidental to the principal debt*

- (1) A guaranty shall be deemed to have been given only for the principal amount of the principal debt, unless it has been agreed that the guaranty covers also interest or other incidental costs.
- (2) The creditor shall notify the guarantor of the debtor's default within one month of the default. If the creditor notifies of the default later, the guarantor shall only be liable for the interest, penal interest or other time-based compensation that has accrued after the notice was given or sent. If the creditor can prove that the guarantor has otherwise known of the default, the guarantor shall be liable for the said compensation from the time of receipt of notice of the default.

#### Section 5 — *Limits of a general guaranty*

- (1) A general guaranty shall indicate the monetary upper limit of the guarantor's liability, as well as the period of validity of the guaranty or, where the guarantor assumes liability for principal debts incurred or becoming due during a given period, that period.
- (2) If a general guaranty has not been limited in accordance with paragraph (1), the guarantor shall only be liable for such principal debts that have been incurred in connection with the giving of the general guaranty or that had been incurred before the giving of the general guaranty and that the guarantor knew of at the time.
- (3) Where the guarantor is a natural person, the provisions in this section are mandatory in the favour of the guarantor.

### Section 6 — *Limiting the guarantor's liability*

- (1) During the period of validity of a general guaranty, the guarantor may set a cut-off time, thereby declining liability for principal debts incurred after the said time. The limitation enters into force when notice thereof is delivered to the creditor, unless the guarantor has mentioned a later time in the notice.
- (2) The provision in paragraph (1) applies also to guaranties covering overdraft facilities where the creditor's claim varies in accordance with the actual balance of the account.

### Section 7 — *Adjustment of a guaranty*

- (1) A private guarantor's liability to a lender may be adjusted if the amount of the principal debt payable by the guarantor is unreasonably high in view of the guarantor's financial status and the lender knew, or ought to have known, at the time of giving the guaranty, that the guarantor's liability is manifestly disproportionate to his/her capability of meeting it. In the adjustment procedure, the guarantor's age, ability to pay and other circumstances, both at the time of giving the guaranty and after it, shall be taken into account.
- (2) In addition, section 36 of the Contracts Act (228/1929) applies to the adjustment of unreasonable contract terms.

### Section 8 — *Altering the terms of the principal debt*

- (1) An alteration of the terms of the principal debt to the detriment of the guarantor shall not be binding on the guarantor, unless he/she has consented to the alteration or the guaranty has been given as a general guaranty.
- (2) However, the consent of the guarantor shall not be needed for an agreement on the extension of the due date, nor for other alterations of the terms of the principal debt, if these have only an insignificant effect on the liability of the guarantor or if the basis of the alteration has been defined in the undertaking on the principal debt.

### Section 9 — *Change of creditor*

- (1) A guarantor shall be liable for the principal debt to the creditor to whom the debt has been transferred. A guarantor who has given a general guaranty shall not without a new undertaking be liable for debts incurred after the transfer of the principal debt or for debts owed to the transferee creditor before the principal debt was transferred.
- (2) A guarantor who has given a general guaranty shall not be liable for debts that are transferred to a creditor benefiting from the general guaranty.

### Section 10 — *Changes of corporate form and structure*

- (1) A guarantor who has given a general guaranty shall be liable for debts incurred after a change of the form of the creditor corporation. The guarantor shall be liable for debts issued after a division or merger of the creditor corporation only if the guarantor has been notified of the division or merger and of the right to limit his/her liability in accordance with section 6, and the guarantor has not notified such limitation to the creditor within a period, no shorter than one month, provided in the creditor's notification.
- (2) If a credit institution, as referred to in section 2 of the Credit Institutions Act (1607/1993), merges with another credit institution, a guarantor who has given a general guaranty shall be liable also for debts incurred after the merger even in the absence of a creditor's notice referred to in paragraph (1).
- (3) A person who has given a general guaranty shall not be liable for debts incurred after a change of the form of the debtor corporation, or its division or merger. However, the provision in this paragraph does not apply when an unlimited partnership changes form into a limited partnership or a limited partnership into an unlimited partnership, or when a private limited-liability company changes form into a public limited-liability company, or a public limited-liability company into a private limited-liability company.

### Section 11 — *Change of the status of the guarantor*

If a natural person who has given a guaranty no longer belongs to a body of a corporation or foundation as referred to in section 2(6), nor is an owner

thereof, and this change of status has been notified to the creditor, the guarantor shall after the notification be deemed a private guarantor in the application of section 4(2) and sections 6, 13 and 14.

### Chapter 3 — **Informing the guarantor**

#### Section 12 — *Duty to inform the guarantor before the guaranty is given*

- (1) Before a guaranty is given, a lender must inform a private guarantor of the debts and incidental costs that the guaranty covers, the principles under which repayment can be required of the guarantor and the other circumstances that are of relevance as regards the status of the guarantor. If the information is provided in writing, it shall be provided no later than one day before the guaranty is given.
- (2) Before the guaranty is given, the lender shall inform a private guarantor of those other obligations of the debtor and other circumstances relating to the ability of the debtor to pay as can be deemed to be of interest to the guarantor.
- (3) If the lender is in breach of the duty provided in paragraph (1) or if he/she fails to inform the guarantor of a circumstance referred to in paragraph (2) that he/she knew of, or ought to have known of, and there is reason to believe that the breach has affected the guaranty, the liability of the guarantor may be adjusted.

#### Section 13 — *Duty to inform the guarantor during the period of validity of a general guaranty*

- (1) The lender shall inform a private guarantor who has given a general guaranty of the outstanding balance of the principal debt every six months, unless the parties have agreed that the guarantor is to be informed of a new principal debt without delay. The same applies to situations where a private guarantor has given the lender a guaranty that applies to an overdraft facility where the lender's claim varies in accordance with the balance of the account.

- (2) If the lender is in breach of the duty provided in paragraph (1) and there is reason to believe that the breach has affected the guaranty, the liability of the guarantor may be adjusted.

#### Section 14 — *Guarantor's access to information*

- (1) On request, the creditor shall grant the guarantor access to information concerning the principal debt.
- (2) During the period of validity of the guaranty, the lender shall inform, on request, a private guarantor of those obligations of the debtor and other circumstances relating to the ability of the debtor to pay, as can be deemed to be of interest to the guarantor. The duty to inform, in this paragraph, only applies to circumstances that the lender knows of and that can be provided without separate measures or that the lender can obtain from a credit register at its disposal. The lender is entitled to be compensated by the guarantor for the reasonable costs arising from the provision of information.
- (3) If the creditor breaches a duty referred to in paragraph (1) or (2), and there is reason to believe that the breach has affected the guaranty, the liability of the guarantor may be adjusted.

### Chapter 4 — **Reduction and lapse of guarantor's liability**

#### Section 15 — *Lapse of guarantor's liability*

- (1) The guarantor's liability to the creditor shall lapse when the principal debt has been repaid or when it has otherwise lapsed.
- (2) The Act on the Recovery of Assets to a Bankruptcy Estate (758/1991) applies to the guarantor's status in the event of the repayment being reversed in recovery proceedings.

#### Section 16 — *Attending to the principal debt*

If the creditor fails to file his/her claim in connection with a public summons concerning the debtor, the restructuring of a corporate debtor, the bankruptcy of the debtor or other insolvency proceedings, the guarantor shall

be released of liability for that part of the debt that, had the claim been filed, could have been recovered from the assets of the debtor or the bankruptcy estate.

Section 17 — *Releasing the debtor of liability*

- (1) If the creditor releases the debtor or one of jointly liable debtors of liability without the consent the guarantor, the guarantor's liability to the creditor shall lapse. If the release applies only to a part of the principal debt, or if the released debtor was liable only for a part of the principal debt, the guarantor shall be released of his/her liability for that part.
- (2) The creditor may recover the principal debt from the guarantor in accordance with the original terms, even if the terms of the principal debt have been amended, for the debtor, in accordance with the Act on the Adjustment of the Debts of a Private Individual (57/1993) or the Act on the Restructuring of Companies (47/1993).

Section 18 — *Releasing the guarantor of liability and surrendering other security*

- (1) If the creditor releases one of many guarantors from liability for the same principal debt in full or in part, the remaining guarantors shall only be liable for the repayment of their own proportions of the debt. The proportions shall be determined in accordance with the provisions in section 31(1) and (2) on the mutual liability of the guarantors as regards the principal debt. An agreement between the guarantors on the allocation of their liability shall be taken into account only if the creditor knew of such an agreement when releasing a guarantor of liability.
- (2) If the creditor surrenders some other security that been given for the principal debt, and the security was, under section 30, to the benefit of the guarantor, the guarantor shall be released of liability to the amount that the value of the surrendered security would have covered the principal debt. The same provision applies if the value of the security diminishes owing to an act or omission by the creditor.

- (3) The provisions of paragraph (1) and (2) may be derogated from by the terms of the guaranty, unless the guaranty is by law a primary security for the principal debt. Furthermore, another guaranty or security that has been given after a guaranty may be released or surrendered without the consent of the guarantor, provided that it had not been required when the prior guaranty was given.

#### Section 19 — *Expiration of the guaranty*

- (1) The creditor shall forfeit his/her right as against a guarantor unless he/she demands repayment within three years of the principal debt becoming due. This expiration period shall be interrupted also when the creditor reminds the guarantor of his/her liability or when the guarantor makes a payment towards the principal debt. A new three-year expiration period shall begin from the interruption of the previous period.
- (2) If the guaranty has been given for a fixed period, the creditor shall forfeit his/her right as against the guarantor unless he/she demands repayment before the end of that fixed period.
- (3) Furthermore, a guaranty shall expire in ten years from being given, as provided in the Decree on Time Limits in Matters of Debt and on the Public Summons of Creditors (32/1868).

#### Section 20 — *Security given in lieu of a guaranty*

- (1) A private guarantor shall be released of liability to the lender if the lender is given another guaranty or some other security in lieu of the original guaranty and the new guaranty or security is deemed to be sufficient to cover the principal debt. The lender shall not, however, be obliged to accept any other guaranty than one given by a corporation referred to in chapter 3, section 20(3) of the Enforcement Act (37/1895).
- (2) The new guaranty or security, as referred to in paragraph (1), shall be substituted for the original guaranty so that the mutual liability of the guarantors or other security providers for the principal debt does not change.

## Chapter 5 — **Recovering the principal debt from the guarantor**

### Section 21 — *Dueness of a secondary guaranty*

A creditor may demand repayment from a guarantor who has given a secondary guaranty when the principal debt has become due and

- (1) it has not been possible to recover assets from the debtor, by way of distraint, to an amount that would obviously cover the entire principal debt;
- (2) the debtor has been declared bankrupt;
- (3) the debtor has been subjected to proceedings governed by the Act on the Adjustment of the Debts of a Private Individual or the Act on the Restructuring of Companies, or a temporary injunction has been placed on the principal debt in connection with such proceedings; or
- (4) the debtor has been subjected to some other form of insolvency proceedings on the basis of a decision of an authority or a court order, and these proceedings impede the recovery of the principal debt by way of distraint.

### Section 22 — *Dueness of a surety*

A creditor may demand repayment from a guarantor who has provided a surety when the principal debt has become due.

### Section 23 — *Dueness of a deficiency guaranty*

- (1) A creditor may demand repayment from a guarantor who has given a deficiency guaranty when the security has been sold or when it has been noted, in distraint proceedings, that there is an impediment to the sale of the security. The guarantor shall become liable to repay also if he/she has informed the creditor, after the principal debt has become due, that he/she does not demand the sale of the security.
- (2) If the debtor gets to retain the security in debt adjustment or company restructuring proceedings, the creditor may demand repayment from a

guarantor who has given a deficiency guaranty only for that part of the principal debt that will not be covered under the payment schedule. However, the guarantor shall not be liable for any penal interest that would accrue on a debt payable by the debtor during the course of the payment schedule. If the security is later liquidated, the creditor may demand repayment from the guarantor in accordance with the original terms, with the exception of the penal interest mentioned above.

*Section 24 — Measures for the calling in of debts*

- (1) If the dueeness of the principal debt requires that measures for calling it in are directed at the debtor, the creditor may demand repayment from the guarantor only if the said measures have been directed both at the debtor and the guarantor. If the principal debt need not be repaid earlier than after a given period from the measures, the guarantor's obligation to repay the debt shall begin after that period has passed also from the measures directed at the guarantor.
- (2) If the debtor has been declared bankrupt, the creditor may demand repayment from the guarantor without measures directed at the debtor. The same provision applies if the debtor has been subjected to proceedings governed by the Act on the Adjustment of the Debts of a Private Individual or the Act on the Restructuring of Companies, or a temporary injunction has been placed on the principal debt in connection with such proceedings.

*Section 25 — Right of a private guarantor to repay the principal debt in accordance with the original terms*

- (1) If the principal debt has become due because of the debtor being in default, a private guarantor is entitled to repay the principal debt to the lender in accordance with the terms that would have applied had the principal debt not become prematurely due. In this event, it shall be required that the private guarantor repays, within a period no shorter than one month, as set by the lender, all repayments that are in arrears, and that some other guaranty or security that is considered adequate is given for the outstanding principal amount of the debt. The lender need not, however, accept another guaranty

than one given by a corporation referred to in chapter 3, section 20(3) of the Enforcement Act. The provision above applies also if the principal debt has become due by reason of an anticipatory default, or for another comparable reason.

- (2) The principal debt shall be deemed to have become due *vis-à-vis* the debtor and the other guarantors even if a private guarantor repays the principal debt in accordance with the original terms, as provided in paragraph (1).

#### Section 26 — *Guarantor's premature repayment*

- (1) A guarantor may repay a principal debt that has become due on the same terms as the debtor. A guarantor may also repay a principal debt that has not become due if the debtor would have been entitled to repay the debt prematurely. The guarantor is entitled to repay the debt by a money payment even if the debtor has undertaken to repay the debt in some other manner.
- (2) If the creditor is entitled to call in the debt by reason of the debtor's breach of contract, the guarantor may repay the principal debt. In this event, the creditor may not demand from the guarantor more than what the debtor would have been liable to pay had the creditor called in the principal debt.
- (3) The provision in paragraph (2) applies even if the debtor has been declared bankrupt, or subjected to proceedings governed by the Act on the Adjustment of the Debts of a Private Individual or the Act on the Restructuring of Companies.

#### Section 27 — *Guarantor's right to set-off*

- (1) The guarantor has the right to set-off his/her repayment of the principal debt against any claims that he/she has on the creditor.
- (2) If the creditor demands repayment from the guarantor, the guarantor has the right to set-off any claim that the debtor has on the creditor and that the creditor could use for set-off against the principal debt. The creditor shall, upon demand, provide the necessary information for the execution of the set-off.

## Chapter 6 — **Right of recourse**

### Section 28 — *Right of recourse against the debtor*

The guarantor has the right to recover, from the debtor, the amount of the principal debt that he/she has repaid to the creditor on the basis of the guaranty.

### Section 29 — *Determining the duty to repay the principal debt*

When the creditor has demanded repayment from the guarantor, the debtor shall, upon the request of the guarantor, provide the guarantor with the necessary information regarding the duty to repay the principal debt. If the guarantor does not have a justified reason, based on the information provided by the debtor and the other relevant facts, to refuse to repay, the guarantor shall have a right of recourse against the debtor after he/she has repaid the principal debt even if the debtor would not have been under a duty to repay.

### Section 30 — *Guarantor's right to security*

- (1) The guarantor has an equivalent right as that of the creditor to receive payment for his/her claim under the right of recourse from the security provided by the debtor for the principal debt. If the guarantor has not repaid the entire principal debt, or if the security has before the giving of the guaranty been given also for other claims of the creditor, the guarantor's right shall be subordinate to that of the creditor.
- (2) The provisions of paragraph (1) may be derogated from by the terms of the guaranty, unless the guaranty is by law a primary security for the principal debt.
- (3) If the security has been given by someone else than the debtor, the guarantor shall have a right of recourse on the security only if there is an express agreement, to this effect, on the mutual liability of the guarantor and the person giving the security.

Section 31 — *Right of recourse against another guarantor*

- (1) If guaranties for the same principal debt have been given simultaneously, or subject to a requirement that other guaranties be given, and there is no agreement on the mutual liability of the guarantors, each guarantor has a right of recourse against the other guarantors, in proportion to the number of guarantors, for the amount of the principal debt that the guarantor has repaid. The guarantor has a right of recourse for the amount that he/she has repaid the principal debt over and above his/her own proportional guaranty liability and that has reduced the guaranty liability of the other guarantors.
- (2) If guaranties for the same principal debt have been given independently and at different times, and there is no agreement on the mutual liability of the guarantors, a guarantor has the right of recourse against guarantors who have given a prior guaranty for the entire amount of the principal debt that he/she has repaid. The guarantor who has given a prior guaranty has no right of recourse against a guarantor that has given a later guaranty.
- (3) If a guarantor has not paid on a claim under the right of recourse within a month of a demand to pay or if he/she is insolvent, as referred to in section 21, the guarantor who has repaid the debt may demand that all other guarantors pay their share of the unpaid claim under the right of recourse. The proportion of each guarantor shall be determined in proportion to their original guaranty liability.

Section 32 — *Dueness of a claim under the right of recourse and penal interest*

- (1) A guarantor's right of recourse against the debtor or another guarantor shall begin when the guarantor has repaid the principal debt; not, however, before the principal debt has become due.
- (2) Unless agreed otherwise, a guarantor shall be entitled to penal interest in accordance with section 4(3) of the Interest Act (633/1982) on a claim under the right of recourse as soon as he/she became entitled to claim under the right of recourse. If the liability to repay the principal debt had not taken effect for a given guarantor, that guarantor's liability to pay penal interest

shall begin a month after the claim under the right of recourse has been served on him.

Section 33 — *Expiration of a right of recourse*

- (1) A guarantor's right of recourse against the debtor shall expire in accordance with the provisions on the expiration of the underlying principal debt. However, the right of recourse shall not expire earlier than three years from the date when the guarantor received the right of recourse against the debtor.
- (2) A guarantor's right of recourse against another guarantor shall expire unless he/she demands payment within three years from the date when he/she received the right of recourse against the other guarantor. The expiration period shall also be interrupted when the guarantor reminds the other guarantor of the claim under the right of recourse or when the other guarantor pays on the claim. A new three-year expiration period shall begin from the interruption.

Chapter 7 — **Miscellaneous provisions**

Section 34 — *Right to provide information*

The information referred to in sections 4, 12-14 and 27 may be provided to a guarantor regardless of the creditor's duty of confidentiality or the restrictions on transfers of personal data.

Section 35 — *Delivery of notices*

- (1) A creditor may deliver notices referred to in this Act to the guarantor by mailing it to the address that the guarantor has given to the creditor, or to the address that the guarantor has later given to the district registry.
- (2) In the application of section 10(1), section 24 and section 25(1), the guarantor shall be deemed to have received the notice on the seventh day after the notice was mailed.

- (3) The provisions in paragraphs (1) and (2) apply also to a claim by the guarantor as referred to in section 31(3) and section 32(2).

#### Section 36 — *Provisions on judicial procedure*

- (1) A creditor's action against the guarantor may be heard in the same proceedings where repayment is demanded from the debtor, even if the liability to repay under section 21 or 23 has not yet begun.
- (2) The guarantor may bring an action against the debtor for his/her claim under the right of recourse as soon as the principal debt has become due, even if the guarantor has not repaid the principal debt.
- (3) A guarantor has the right to apply for the enforcement of a judgment referred to in paragraph (2). A payment by the debtor shall be credited to the guarantor up to the amount by which the guarantor has repaid the principal debt. The rest of the payment, if any, shall be credited to the creditor, in which event the guarantor's liability under the guaranty shall be reduced by the amount of the payment. If judgments received by the guarantor and by the creditor are being enforced concurrently, the judgment received by the guarantor shall be taken into account in the enforcement only to the amount by which the guarantor has repaid the principal debt.

#### Section 37 — *Arbitration agreement*

A private guarantor shall not be bound by an agreement, concluded before the dispute, to the effect that disputes concerning the guaranty are to be submitted to arbitration.

#### Section 38 — *Internationally mandatory provisions*

A provision in this Act that is mandatory in the favour of a private guarantor shall likewise be mandatory so that it cannot be overridden to the detriment of the guarantor by an agreement stating that the guaranty given by the private guarantor to a lender be subject to the legislation of a foreign country, if the guaranty otherwise would be subject to this Act.

### Section 39 — *Supervision of contract terms*

The Consumer Ombudsman shall supervise the use of contract terms between lenders and private guarantors.

## Chapter 8 — **Third-party pledge**

### Section 40 — *Dueness of the right under a third-party pledge*

- (1) A creditor shall be entitled to a repayment under a third-party pledge as soon as the principal debt has become due.
- (2) If the debtor has given a security for the same principal debt, the creditor may collect the principal debt from a third-party pledge subject to the conditions laid down in section 23.
- (3) In the undertaking on the pledge, a derogation may be made to paragraph (2), unless the security is by law primarily liable for the debt.

### Section 41 — *Application of the provisions on guaranties to third-party pledges*

The provisions in section 3(2) and (3), sections 4-6 and 8-17, section 18(2) and (3), section 19(2), sections 24-30 and 32, section 33(1) and sections 34-39 on guaranties apply, in so far as appropriate, also to third-party pledges. The provisions in these sections on private guarantors apply correspondingly to private pledgors.

### Section 42 — *Transfer of a pledge*

If a debtor has transferred pledged property to another person, or that person has by some other means become the owner of the pledged property, and this transfer has been notified to the creditor, the provisions in section 4(2) and sections 13-14 apply, after the notification, to the new owner of the pledged property.

## Chapter 9 — **Entry into force**

### Section 43 — *Entry into force*

- (1) This Act enters into force on 1 October 1999.

- (2) This Act repeals:
- (1) chapter 10, sections 8–16 of the Commercial Code; section 11 as laid down in the Act 623/1947, section 13 as laid down in the Act 237/1929 and sections 14–16 as laid down in the Act 540/1994, and
  - (2) the Decree on Defining the Liability of a Guarantor More Precisely (7/1873), as later amended.
- (3) If there is in another Act or a Decree a reference to, or some other implication on, a provision repealed by this Act, the pertinent provisions in this Act applies on the guaranty or third-party pledge instead of the repealed provision.

Section 44 — *Transitional provisions*

- (1) Except for section 3(2) and sections 7 and 12, this Act applies also to a guaranty given by a private guarantor to a lender before the entry into force of this Act, subject to the following restrictions.
- (2) Section 5 applies only subsequent to an increase of liability under a general guaranty given by a private guarantor to a lender before the entry into force of this Act. If the restrictions referred to in section 5 are not included in the guaranty at that time, the guaranty shall not apply to new principal debts.
- (3) Sections 10, 11, 16–19, 21–24, section 26(3) and sections 32–36, and, for pledges, section 42, apply also to other guaranties given before the entry into force of this Act, unless otherwise provided in paragraphs (4) and (5).
- (4) Sections 16–18 do not apply, if a failure to attend to the principal debt, or the release of a debtor, guarantor or pledge has taken place before the entry into force of this Act; likewise, sections 19, 21–25, 32 and 33 do not apply if the principal debt has become due before the entry into force of this Act.
- (5) Sections 30 and 31 do not apply to the mutual liability of guaranties or securities given before the entry into force of this Act.
- (6) The provisions in this section on guaranties apply, in so far as appropriate, to third-party pledges given before the entry into force of this Act.