

The Enforcement Code (1981:774)  
(including amendments up to SFS 2001:377)



# Introduction

The Swedish Enforcement Code (utsökningsbalken) entered into force the 1st of January 1982 and since then it has been amended on numerous occasions. The Act was translated by the lawyer and translator James Hurst (English Law Translations).

The Ministry of Justice publishes the translation as a service to interested persons but takes no legal responsibility for the translation or for any consequences from its use. The translation has been partly financed by the Swedish National Tax Board (Riksskatteverket) and includes amendments up to SFS 2001:377.

A translation invariably deviates to some extent from the original text. This applies especially to legal texts. It is sometimes particularly difficult to translate legal terms and concepts. The meaning of a legal term may vary somewhat between the various legal systems. One such term is '*panträtt*'. References in the Enforcement Code to '*panträtt*' in real property, ships or aircraft, have normally been translated as 'mortgage rights', though the term '*panträtt*' may include other kinds of rights than those that have arisen through mortgaging or pledging and registration, for instance, '*panträtt*' for salvage costs under the Maritime Code (1994:1009).



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# Chapter 1 Introductory provisions

## **Scope of application**

### **Section 1**

This Code applies to issues concerning the enforcement of judgments or other enforcement title, which comprise an obligation to pay or other obligation, and also to issues concerning enforcement of decisions on provisional attachment or other similar security measure.

Enforcement that relates to an obligation to pay is implemented through attachment. Enforcement that relates to another obligation or security measure is implemented in the manner stated in Chapter 16. (SFS 1995:298).

### **Section 2**

If a provision deviating from this Code has been prescribed by another Act, that provision shall apply.

## **Enforcement authority**

### **Section 3**

Enforcement is a function of the Enforcement Service.

Cases concerning enforcement (enforcement cases) are dealt with by a senior enforcement officer or other officer at the Enforcement Service (enforcement administrator).

**Section 4**

Enforcement administrators are subject to the same disqualifications as stated in Chapter 4 of the Code of Judicial Procedure in relation to judges. Disqualification may not be based on a measure that an enforcement administrator has implemented in his official service or on an act that has been committed against him in or for his official service.

**Section 5**

If an enforcement administrator knows of a circumstance that may be deemed to comprise disqualification against him, he shall of his own volition make this known.

If the issue of disqualification of an enforcement administrator arises and if no other person has taken his position, the Enforcement Service shall decide on the disqualification issue as soon as possible. The enforcement administrator may only consider the issue of disqualification himself if another officer cannot take his place without inconvenient delay.

An enforcement administrator who is disqualified may, notwithstanding this impediment, take a measure that cannot be postponed without inconvenience.

**Certain rules concerning cases and parties, etc.****Section 6**

Enforcement cases are dealt with as private cases or public cases.

Public cases are cases concerning imposition of fines, default fines, taxes, customs duty, charges and other funds to which the State is entitled and which may be enforced without a preceding judgment and also, as prescribed in more detail by the Government, other similar claims that the State or a municipality is entitled to. It may also be prescribed by another Act that cases concerning imposition of some other claim may be public cases.

Cases other than those referred to in the second paragraph are private cases. (SFS 1993:893).

### **Section 7**

A person who requests enforcement by the Enforcement Service is referred to as the applicant. The State or municipality is regarded as the applicant in public cases.

The applicant's other party at the Enforcement Service is referred to as the defendant or, in cases concerning claims against him, the debtor. When particular property is encumbered with a debt, the relevant parts of that applicable concerning debtors apply to the owner, even if he is not personally under an obligation to pay.

A person who is not an applicant or defendant is referred to as a third party. A third party against whom the debtor himself has a claim is called a secondary debtor.

### **Application of provisions concerning ships, aircraft or real property**

#### **Section 8**

That stated in this Code concerning registered ships, registered aircraft or spare parts for aircraft subject to registered pledges applies, unless otherwise provided by special provisions, also to property which is entered in a register outside Sweden corresponding to the Swedish Vessel Register (Ship Section) or Aircraft Register or, as regards spare parts, property that is mortgaged outside the Realm.

However, the provisions of Chapter 4, Section 7, second paragraph and Section 30, second paragraph do not apply to property that is referred to in the first paragraph. (SFS 2001:337).

**Section 9**

A ship under construction is equated with a ship. As regards ship construction, that stated concerning this about the Vessel Register (Ship Section) shall instead apply to the Vessel Register (Ship Construction Section). (SFS 2001:337).

**Section 10**

The applicable parts of that stated concerning registered ships, registered aircraft or spare parts for aircraft subject to registered pledges also apply to shares in and conditional rights to such property, unless otherwise prescribed.

**Section 11**

Real property means a land unit, a particular area of a land unit, communal land and also shares in and conditional rights to such property.

The applicable parts of that stated concerning real property also apply to site leasehold.

**Section 12**

The applicable parts of that stated concerning mortgage certificates in land units also apply to certificates of abeyance.

# Chapter 2 Procedure at the Enforcement Service

## **Application, etc.**

### **Section 1**

An application for enforcement is made orally or in writing. However, the Government or the authority appointed by the Government may permit an application to be made in a medium for automatic data processing.

A written application shall be signed by the applicant or his representative.

Verdicts in cases concerning payment orders or enforcement assistance are executed by the Enforcement Service on its own volition, unless the applicant in the case has stated that enforcement shall not take place. An application for enforcement is deemed to be made when the verdict is issued. (SFS 1991:849).

### **Section 2**

The applicant shall state the measure that he requests.

The enforcement title on which the enforcement sought is founded shall be submitted with the application. If the claim is founded on a negotiable promissory note or other document, the presentation of which comprises a condition for the right to demand payment or call for satisfaction of some other obligation, the document shall be submitted.

The original enforcement title document shall be submitted or, if the Enforcement Service considers it sufficient, a certified copy thereof. A document referred to in the second paragraph, second sentence, shall be submitted in the original. Other documents should be submitted in the original or as a certified copy.

If the application is made in a medium for automatic data processing, the enforcement title need not be submitted, provided it is a verdict in a case concerning a payment order.

The applicant need not submit an enforcement title, provided it is a judgment or a criminal penalty order that as a result of a provision of an Act or other statute has been forwarded to the Enforcement Service from a court or an authority. (SFS 1996:1027).

### **Section 3**

The application shall be made at the Enforcement Service that is competent in accordance with the provisions in Chapter 4, Section 8 or Chapter 16, Sections 1 or 10.

When applying this Code, the defendant's domicile means the place where he is resident and, as regards the estate of deceased persons, the district where the deceased person was last resident and, as regards other legal persons, the district that in accordance with Chapter 10 of the Code of Judicial Procedure forms the basis of the competence of the Court in contentious cases generally. (SFS 1995:298).

### **Section 4**

If the application has been made to an Enforcement Service that is not competent, the case shall be immediately transferred to an Enforcement Service that appears to be competent according to the documents. The application is deemed to have been made when it has been received by the first Service or, as regards an oral application, when such application was made there.

Even if the Service where the application was made is competent, the case may be transferred to another competent Enforcement Service, if this would promote the processing of the case. A case may also be transferred after attachment has been executed or other measure for enforcement has been taken. (SFS 1993:1650).

### **Section 5**

If an application is so inadequate that it cannot form the basis of a consideration of the substantive issue, and if the applicant does not comply with an order to remedy the inadequacy, the application shall be dismissed. (SFS 1993:893).

### **Section 6**

Except to the extent otherwise prescribed by this Section, Chapters 11 and 12 of the Code of Judicial Procedure shall be applied in relation to the authority of a party and legal representative or attorney and counsel for a party.

The attorney does not need to prove his authorisation by a power of attorney unless the Enforcement Service considers this necessary.

If the attorney or counsel demonstrates incompetence or ignorance or if he is otherwise unsuitable, the Enforcement Service may dismiss him as attorney or counsel in the case.

### **Section 7**

Chapter 33, Section 3 of the Code of Judicial Procedure applies to matters concerning documents received by the Enforcement Service.

A document, which relates to an application or other measure that shall be implemented before the sale of attached property, conclusion of a meeting or decision is issued, is considered to have been received in good time only if the enforcement

administrator has become cognisant of the content of the document before the said time.

### **Section 8**

The Enforcement Service may if necessary engage an interpreter. An interpreter who does not conduct the assignment as part of his official duties is entitled to remuneration from public funds.

Chapter 33, Section 9 of the Code of Judicial Procedure applies in matters concerning translations of applications or other documents that are not drawn up in Swedish.

### **Section 9**

If a party or third party fails to satisfy an obligation to which he is subject in an enforcement case and there is cause to assume that he has legal excuse, the failure shall not result in a sanction or otherwise disadvantage him in the case. However, an auction or proof of debt meeting shall not be cancelled unless there are extraordinary reasons.

If someone has been ordered to institute proceedings within a particular period and if he shows legal excuse before the expiry of that period, the Enforcement Service shall prescribe a new period.

Chapter 32, Section 8 of the Code of Judicial Procedure applies to matters concerning what may be regarded as legal excuse.

## **Questioning**

### **Section 10**

The Enforcement Service may hold a questioning with the defendant, if necessary. The defendant may be ordered to personally attend subject to a default fine of at most one thousand kronor.

If necessary, the applicant shall also be summoned to such a questioning. The applicant may be ordered to attend subject to the sanction that his application otherwise lapses. If the applicant ought to attend personally, a default fine of at most one thousand kronor may be ordered for him.

#### **Section 11**

Questioning may, if necessary, be held with a third party who is a party to the case or who in accordance with this Code is liable to provide information. A third party may be ordered to attend personally subject to a default fine of at most one thousand kronor.

#### **Section 12**

Questions concerning the confirmation of default fines that have been ordered in accordance with Section 10 or 11 are considered by the Enforcement Service. If the purpose of the default fine has lapsed, it may not be confirmed.

If the defendant fails to attend a questioning and a default fine has been ordered for him, he may be collected.

#### **Section 13**

A third party who has presented himself to be heard may be awarded reasonable compensation from public funds for the attendance.

#### **Section 14**

If information concerning the personal or financial circumstances of a person has been disclosed at a questioning, the disclosure of which may be assumed to involve substantial damage or significant inconvenience for the individual or someone closely related to him, the Enforcement Service may

order that the information may not be disclosed without authorisation.

## **Compulsory measures**

### **Section 15**

When the Enforcement Service in accordance with Chapter 4, Section 14 or 15, or Chapter 16, Section 9 or 12 or Section 13 together with Chapter 4, Sections 14 and 15, orders the defendant or third party to fulfil or cease something, the Service may order a default fine in the amount considered necessary.

Issues concerning the confirmation of default fines that have been ordered in accordance with the first paragraph are considered, on the action of the Enforcement Service, by a District Court in the region where the Enforcement Service is located. If the reason for the default fine has lapsed, it may not be confirmed.

If the order for a default fine has not been observed, the Enforcement Service may issue a new default fine order notwithstanding the previous order not having entered into final legal force. (SFS 1996:1438).

### **Section 16**

If the debtor or the third party does not comply with the order in accordance with Chapter 4, Section 14 or 15 or Chapter 16, Section 13 together with the said statutory provisions, he may be detained, provided there are extraordinary reasons. Questions concerning detention are considered, upon the request of the Enforcement Service, by a District Court in the region where the Enforcement Service is located.

When a request for detention has been made, a hearing shall take place before the Court. The Enforcement Service and, unless there is an impediment, the person subject to the application shall be summoned to the hearing. He may be

collected, if there is reason for so doing. If he has been summonsed to the hearing or if it may be assumed that he has absconded or is otherwise in hiding, his absence does not constitute an impediment to the consideration of the application. The provisions of the Code of Judicial Procedure concerning defenders and concerning litigation costs in criminal cases shall apply correspondingly to issues concerning the right to counsel and costs in the case.

The Court shall, with intervals of at most two weeks, hold hearings in order to consider whether the person who is detained in a detention centre should still be detained. If there are no longer reasons for detention, the Court shall immediately order that the detained person is released. No one may be kept in detention for a longer period than three months in the case. As regards the processing otherwise of matters concerning detention under this Section, that applicable according to the Code of Judicial Procedure concerning detention of suspected persons shall apply correspondingly. (SFS 1996:1438).

### **Section 17**

In connection with enforcement administration, a house, room or place of storage may be searched, provided this is necessary in order for an enforcement to take place.

If the enforcement administrator needs access to spaces that are enclosed, he may allow locks to be opened or arrange access by other means. However, he cannot arrange access to a dwelling in the absence of the occupant unless notification of the time for the enforcement administration has been dispatched to the occupant by post or provided in another appropriate manner and it may be assumed that he is in hiding or if there are other special reasons.

In order to implement an enforcement administration, the enforcement administrator may otherwise use compulsion to the extent this is deemed justified having regard to the circumstances. However, physical force may only be used if the

enforcement administrator encounters resistance and to the extent that this may be considered justified having regard to the purpose of the enforcement administration.

## **Decision**

### **Section 18**

A decision shall, to the extent it is necessary, state the reasons upon which it is based.

Decisions that may be appealed against shall contain information about what the person who wishes to pursue an action against the decision should observe. However, such information may be omitted when it is manifestly unnecessary.

### **Section 19**

A decision of the Enforcement Service applies immediately. However, a default fine may not be enforced before the decision, in respect of which the Enforcement Service has confirmed the default fine, has entered into final legal force.

The enforcement continues even if the decision of the Enforcement Service is appealed against, unless otherwise prescribed by this Code or ordered by a court. (SFS 1993:516).

### **Section 20**

Decisions, which as a result of a writing error, error of computation or other such oversight contain a manifest mistake, may be corrected by the Enforcement Service. Unless it is unnecessary, a party and other party to the case shall be afforded an opportunity to express their views before a correction is made.

**Section 21**

The relevant parts of that stated in the Code concerning decisions also apply to such measures by the Enforcement Service that affect the rights of a party or third party.

**Consideration of disputes****Section 22**

In disputes in connection with the distribution of funds that are considered by the Enforcement Service in accordance with Chapter 13, Section 7, third paragraph, proceedings are deemed to be instituted when the creditor gave notice of his claim.

If the action does not satisfy that applicable for a summons application in a contentious case, the Enforcement Service shall direct the creditor to remedy the inadequacy.

**Section 23**

The Enforcement Service shall list an oral hearing in the dispute and call the parties to the hearing. The provisions concerning questioning in Section 10, first paragraph, second sentence and second paragraph, third sentence, Section 11, second sentence, Section 12, first paragraph and Section 14 apply to matters concerning such hearing. The absence of a party from the hearing does not constitute an impediment to considering a dispute.

That prescribed by the Code of Judicial Procedure for contentious cases applies to evidence. However, the provisions concerning detention contained in Chapter 36, Section 21 of the Code of Judicial Procedure may not be applied.

The dispute is determined in conjunction with the distribution of the funds to which the dispute relates. The determination is included in the decision concerning the distribution.

**Section 24**

If an order has been issued to institute proceedings at a court in accordance with Chapter 4, Section 20, 21 or 22 or Chapter 13, Section 7, second paragraph, the dispute shall be considered by a District Court in the region where the Enforcement Service is located, unless otherwise provided by the second paragraph.

If an order has been issued in accordance with Chapter 4, Section 20, 21, 22 or 26 in cases where the dispute relates to property referred to in Chapter 10, Section 10 or 12 of the Code of Judicial Procedure, that provided there concerning the competence of the court applies.

If an order has been issued in accordance with Chapter 4, Section 23, first paragraph or Chapter 9, Section 11, third paragraph, that generally prescribed concerning the competence of the court shall apply. In cases referred to in Chapter 4, Section 23, second paragraph, the dispute shall be considered, when the issue relates to a mortgage certificate in a land unit, by the District Court as stated in Chapter 10, Section 10 of the Code of Judicial Procedure and otherwise by a District Court in the county where the Enforcement Service is located.

If an order has been issued in accordance with Chapter 3, Section 16, that stated in Section 43, first paragraph, of the Arbitration Act (1999:116) shall apply concerning the competence of the court.

The order shall state at which court the proceedings should in the first instance be instituted. (SFS 1999:118).

**Provision of security, etc.****Section 25**

Security that shall be provided in accordance with this Code shall comprise a pledge or guarantee. The guarantee shall be presented as a principal debtor and, if it is entered into by two or more persons together, be joint and several. If the security is not

approved by the person for whose benefit the security shall apply, it shall be considered by the Enforcement Service.

If a bank or other comparable financial institution shall provide security, an undertaking may be accepted by the financial institution to satisfy the obligation to which the security shall relate.

The security shall be taken into care by the Enforcement Service.

#### **Section 26**

When security is to be claimed upon by the Enforcement Service in accordance with Chapter 3, Section 22, second paragraph or Chapter 13, Section 3 or 20, a pledge may be made use of by the arrangements applicable to attached property. The guarantee may be immediately enforced.

#### **Section 27**

The State, a municipality, county council municipality or municipal association need not provide security.

A default fine may not be ordered for the State.

### **Claims that are not due and interest**

#### **Section 28**

Claims that are not due for payment and do not run with interest before the due date for payment are computed at the amount which with 5 per cent annual interest comprises the value of the claim. The corresponding applies if interest promised is less than 5%.

**Section 29**

When funds that the applicant or other party to the case has been allowed to take must be repaid, interest is payable, in accordance with Section 5 of the Interest Act (1975:635), from the date the funds were paid out until the date when repayment should be made and, in accordance with Section 6 of the Interest Act, for time thereafter.

However, interest is not paid to the extent this is due to the person entitled to the funds that they have not been repaid.

**Special provisions concerning public cases****Section 30**

The provisions of Sections 1 and 2, Section 3, first paragraph, Section 4, first paragraph and Section 10, second paragraph do not apply to public cases. As regards the applicant in such a case, neither Section 6 nor Section 29 applies in cases when an enforcement title is revoked.

The applicant in a public case is represented by the Enforcement Service. However, if questions arise concerning dismissal in accordance with Chapter 2, Section 5, or an objection is made to enforcement in accordance with Chapter 3, Section 21, the applicant may conduct his action himself. In disputes referred to in Chapter 4, Sections 20 – 23 and 26, Chapter 9, Section 11, third paragraph and Chapter 13, Section 7, second paragraph, and also where the action is pursued in an enforcement case that has been appealed against, the applicant is represented by the National Tax Board.

In public cases, an application is deemed to have been made when the collection assignment has been entered in the Enforcement Service's system for automatic data processing and the information is available for the Enforcement Service. When collection has been requested in accordance with special provisions at an Enforcement Service that, in accordance with Chapter 4, Section 8, is competent to consider the issue of

attachment, the application is deemed to have been made when the application documents have been received by the Service. (SFS 1993:893).



# Chapter 3 Enforcement titles

## Introductory provisions

### Section 1

Enforcement may, subject to the preconditions stated in this Chapter, take place on the basis of the following enforcement titles:

1. a court judgment, verdict or decision,
2. a settlement that is confirmed by a court,
3. an approved criminal penalty order or approved order to pay a breach of regulations fine,
4. arbitration award,
5. undertakings concerning maintenance allowance,
6. decision of an administrative authority that in accordance with a special regulation may be enforced,
7. document that in accordance with a special regulation may form a basis for enforcement,
8. the verdict or decision in cases concerning payment orders or enforcement assistance made by the Enforcement Service.

That stated in the Code concerning judgment also applies, unless otherwise prescribed, in applicable parts to the verdict or decision of the court and also to the verdict or decision of the Enforcement Service in cases concerning payment orders or enforcement assistance. (SFS 1991:848).

**Section 2**

Special provisions state the extent to which enforcement may take place within the Realm on the basis of a foreign enforcement title.

**Judgment****Section 3**

A judgment may be enforced without special conditions when it has entered into final legal force.

If an action has only been completed for a particular part of a judgment, the judgment may otherwise, when this can be done, be enforced as a judgment that has entered into final legal force, unless otherwise provided by reason of the completed action.

**Section 4**

A judgment that has not entered into final legal force may be enforced in the cases and subject to the conditions stated in Sections 5 – 9.

Provisions concerning impediments to paying out from the sale of attached property or funds received are contained in Chapter 8, Section 4 together with Chapter 13, Sections 1 and 14. (SFS 1995:298).

**Section 5**

Enforcement may take place immediately of a

1. judgment in bills of exchange cases or cheque cases,
2. default judgment whereby an obligation to pay has been imposed on the party that failed to attend or who did not satisfy that stated in Chapter 44, Section 7a or 7b of the Code of Judicial Procedure, unless otherwise provided as a result of an application for re-opening. (SFS 1991:848).

**Section 6**

Another judgment whereby an obligation to pay has been imposed otherwise than as referred to in Section 5 may be enforced immediately, provided the debtor has not deposited money with the Enforcement Service in an amount that corresponds with the obligation to pay on the date that the deposit takes place together with administration costs or as a pledge provides corresponding credit balances at a bank together with the interest that runs on the credit balance for the period thereafter or, when the judgment has been issued by a lower court, provides other security for the obligation to pay together with administration costs.

If the debtor satisfies that stated above first after a measure has been implemented for enforcement of the judgment, the measure shall lapse, if this is possible.

**Section 7**

If a superior court has declared that an action against a judgment whereby an obligation to pay has been imposed has lapsed, the judgment may be enforced immediately, unless otherwise provided as a result of the application for the reinstatement of the case.

If a Court of Appeal has refused leave to appeal for a party in an action against a judgment of a District Court, whereby an obligation to pay has been imposed on the party, the judgment may be enforced immediately, unless otherwise provided as a result of an action against the decision of the Court of Appeal. (SFS 1987:755).

**Section 8**

Judgment whereby someone has been ordered to release personal property may be enforced immediately, provided security is provided for recovery of the property together with

yield. However, this does not apply if the obligation has been imposed as a special legal effect of crime.

#### **Section 9**

A judgment, that in accordance with an Act or according to an order by the Court may be enforced before it has entered into final legal force, is enforced as a judgment that has entered into final legal force, unless otherwise provided by the Act or the order.

#### **Section 10**

An application for a new trial or restoration of expired time, a decision by which such an application has been granted or an appeal against grave procedural error does not prevent enforcement, unless the Court has otherwise decided. (SFS 1994:1038).

### **Verdicts and decisions in cases concerning payment orders and enforcement assistance**

#### **Section 11**

A verdict or a decision in a case concerning a payment order or enforcement assistance by which an obligation to pay has been imposed on someone may be enforced immediately, unless otherwise decided as a result of an application for reopening or appeal. If the debtor has applied for reopening or appeal, that stated in Section 6 concerning the judgment of a lower court applies. (SFS 1994:1038).

#### **Section 12**

A verdict or a decision in a case concerning enforcement assistance is enforced, except in a case as referred to in Section

11, as a judgment that has entered into final legal force, unless otherwise decided by reason of application for reopening or appeal. (SFS 1994:1038).

## **Settlement**

### **Section 13**

A settlement that is confirmed by the Court is enforced as a judgment that has entered into final legal force, unless otherwise ordered as a result of action against the judgment or action for a declaration of invalidity of the settlement.

## **Criminal penalty order and order to pay a breach of regulations fine**

### **Section 14**

An approved criminal penalty order and an approved order for a breach of regulations fine are enforced as judgments that have entered into final legal force.

## **Arbitration award**

### **Section 15**

An arbitration award that is based on an arbitration agreement may be enforced, provided

1. the arbitration agreement does not contain any reservation concerning the right of a party to institute an action against the award or, where there is such a reservation, the time for the party's action has expired without the action having been presented, and

2. the award satisfies the rules concerning writing and signature contained in Section 31, first paragraph of the Arbitration Act (1999:116).

As regards matters concerning remuneration for arbitrators, an arbitration award may be enforced, provided

1. the time for the party's action against the award in that respect has expired without an action having been instituted and
2. the award satisfies the rules concerning writing and signature contained in Section 31, first paragraph of the Arbitration Act (1999:116).

The defendant shall always be given an opportunity to express his views before enforcement takes place.

If enforcement of an arbitration award that is subject to such an agreement concerning the limitation of a party's right to take proceedings against the arbitration award as referred to in Section 51 of the Arbitration Act (1999:116), the provisions of that Act apply. (SFS 1999:118).

### **Section 16**

If there is reason to assume that an arbitration award that in accordance with Section 15 may be enforced is invalid and litigation is not already pending concerning this, the Enforcement Service shall order the applicant to institute proceedings in the matter against the defendant within one month of when the order is served on the applicant. (SFS 1999:118).

### **Section 17**

The relevant parts of the provisions contained in Sections 15 and 16 apply to an arbitration award that, notwithstanding the absence of an arbitration agreement, has been issued pursuant to statutory provisions applying the Arbitration Act (1999:116). (SFS 1999:118).

**Section 18**

If there is no impediment on the bases of the provisions of Section 15 or 17 against enforcement of the arbitration award, it is enforced as a judgment that has entered into final legal force, unless otherwise ordered by the Court where the action against the arbitration award is pending.

However, if the applicant has been ordered to institute an action in accordance with Section 16, the arbitration award may only be enforced in cases and subject to conditions applicable for the judgments of lower courts that have not entered into final legal force. After an action concerning the validity of the arbitration award has been instituted by the applicant or the defendant, the Court may decide on enforcement. If an action is not instituted within the stated period or the case is concluded without considering the substantive issue, the arbitration award shall be deemed to have been revoked when applying Section 22. (SFS 1999:118).

**Undertakings concerning maintenance allowance****Section 19**

Undertakings in writing, witnessed by two persons, relating to maintenance allowance in accordance with the Marriage Code or Parental Code are enforced as judgments that have entered into final legal force.

As regards matters of maintenance allowance, which shall be paid to the debtor's spouse for the spouse's own part or for the spouses' child, enforcement may take place only if the spouses have not permanently lived together during the period to which the allowance relates and still do not do so.

If an action concerning an undertaking has been instituted at Court, it may order that enforcement may not take place until further notice. (SFS 1987:793).

## **Other enforcement title**

### **Section 20**

As regards matters concerning the enforcement of the decision of an administrative authority, that applicable concerning judgments applies, unless otherwise prescribed. Before the substantive issue has been considered, the decision is regarded to be a judgment of a lower court.

As regards matters concerning enforcement as a result of an act referred in Section 1, first paragraph, 7, that specially prescribed applies.

## **Objections to enforcement**

### **Section 21**

If the defendant shows that he has satisfied an obligation to pay or other obligation to which the application concerning enforcement relates, enforcement may not take place. This also applies if the defendant as a set-off refers to a claim, which has been confirmed by an enforcement title that may be enforced or which is based on a promissory note or other written evidence of debt, and the general preconditions for set-off exist.

Nor may enforcement take place if the defendant claims that another circumstance involving the relationship of the parties constitutes an impediment to enforcement and if the objection cannot be ignored.

If a case as referred to in the first or second paragraph exists and if a measure for enforcement has already been taken in the case, the measure shall lapse, if this is possible.

The decision of the Enforcement Service by reason of objection referred to in the first or second paragraph does not impede the matter being considered by court litigation.

## Revocation of enforcement title

### Section 22

If an enforcement title is revoked, the enforcement applied for shall be immediately stopped. Measures for enforcement that have already been taken shall, as far as possible, lapse. Such lapse shall take place immediately, unless otherwise ordered. However, in cases concerning attachment, measures taken shall not lapse without a special order before the determination whereby an enforcement title has been revoked has entered into final legal force.

In cases concerning attachment, the Enforcement Service shall upon request attach what the creditor should repay. In this connection, security provided may be claimed upon. In other cases, the Service shall upon request reinstate possession or other circumstance that has been adversely affected, unless there is an impediment.

The applicant is also obliged to compensate loss that the defendant has suffered due to the enforcement. (SFS 1995:298).

## Special provisions concerning public cases

### Section 23

The provisions of Sections 3 – 13 and 15 – 20, together with Section 22, first paragraph, third and fourth sentences and second and third paragraphs do not apply to public cases.

A judgment or decision, whereby someone has been ordered to pay fines or a default fine or whereby such a special legal effect of crime that includes an obligation to pay has been imposed, may not be enforced before the judgment or decision has entered into final legal force. Other enforcement titles in public cases may be enforced before they have entered into final legal force, if this has been specially prescribed.

An enforcement title in a public case is enforced as a judgment that has entered into final legal force. Instead of that prescribed

by Section 22, first paragraph, third and fourth sentences, the lapse of attachment shall be implemented immediately, when the enforcement title has been revoked. (SFS 1995:298).

#### **Section 24**

If the content of the enforcement title has been listed in the register of fines, tax arrears schedule or other such document that has been prepared in accordance with a special regulation, enforcement may take place on the basis of the document.

# Chapter 4 Attachment

## **Introductory provisions**

### **Section 1**

Attachment may take place when enforcement that relates to an obligation to pay is allowed in accordance with Chapter 3. Attachment may also take place when the Enforcement Service according to a special provision of this Code may enforce the claim or cost.

### **Section 1a**

Attachment on the grounds that the debtor according to statute at particular times should pay maintenance allowance to a spouse, former spouse, own children or another's children shall relate to all allowances that are due at the time of enforcement. However, the applicant may request that enforcement should be limited to a particular allowance amount.

Attachment may not take place for maintenance allowance in accordance with the Marriage Code and Parental Code that is time-barred. (SFS 1995:298).

### **Section 2**

Property that is not exempted on the basis of a provision of this Code or on the basis of a special regulation may be claimed through attachment.

To the extent that a mortgage certificate in a ship or land unit does not comprise security for a claim, it may be attached at the owner of the mortgaged property. The same applies to promissory notes comprising registered pledges on aircraft or spare parts for aircraft.

Special conditions apply for attachment of pay and certain other benefits in accordance with Chapter 7.

## **The Attachment Rules**

### **Section 3**

Attachment may take place only if the amount that may be expected to be received, after deduction of costs that arise after attachment, yields a surplus that justifies the measure.

In the first instance claims shall be made against such asset, which is attachable property, as may be used for payment of the claim with the least cost, loss or other inconvenience for the debtor, unless otherwise prescribed by Sections 4 – 6. (SFS 1993:1650).

### **Section 4**

An applicant, whose claim is linked to a special priority right, is entitled in the first instance to have attachment of property in which the priority right applies. Other assets may not be attached for the claim, if this is of harm to another applicant, unless attachment is made on condition that the payment should in the first instance be taken from the property in which the priority right applies.

### **Section 5**

Registered ships, registered aircraft, spare parts for aircraft subject to registered pledges or real property may only be

attached for claims that are not linked to special priority rights in the property if the applicant requests this.

### **Section 6**

Assets that belong together may not be separated without special reason. Accessories, fixtures and fittings for ships, aircraft or land units may not be attached individually.

If the registered pledge of an aircraft also comprises spare parts, none of the spare parts stored at a particular place may be attached individually without the consent of the holder of the registered pledge.

### **Section 7**

Personal property may only be attached if the property is available at the enforcement administration or if the property nevertheless as a result of registration, information at a questioning or other investigation can be identified and an impediment cannot be assumed to exist for securing the attachment in accordance with that prescribed in Chapter 6.

However, a ship or aircraft registered in the Realm may be attached even if an impediment to ensuring the attachments may be assumed to exist.

## **The Procedure**

### **Section 8**

Matters concerning attachment are considered by the Enforcement Service in the region where the debtor has his domicile, where property belonging to the debtor is located or where enforcement can otherwise take place.

Matters concerning attachment of pay or other benefits as referred to in Chapter 7 are considered, if the debtor is not domiciled in Sweden, by the Enforcement Service in Stockholm.

If attachment has been applied for at an Enforcement Service that is not competent in accordance with the first or second paragraph, the Service may nevertheless in an urgent case take a measure referred to in Chapter 6, Section 12 before the case has been transferred to the Enforcement Service that is competent in accordance with Chapter 2, Section 4, first paragraph. (SFS 1996:1438).

### **Section 9**

A case concerning attachment is processed for one year from the date of the application. However, in connection with attachment on behalf of a bankruptcy estate in accordance with Chapter 7, Section 19, the case is dealt with during the bankruptcy without limitation of time. A case may during the processing period be subject to investigation, enforcement measures or monitoring.

If the attachment of pay for maintenance allowance as referred to in Section 1a, first paragraph, is continuing at the expiry of a one-year period, the case shall be processed for a further one-year period.

If the debtor is put into bankruptcy, the processing of the case is discontinued, unless the attachment of pay is in progress for a claim that relates to maintenance allowance with priority rights in accordance with Chapter 7, Section 14 or attachment shall take place on behalf of a bankruptcy estate in accordance with Chapter 7, Section 19. (SFS 1995:298).

### **Section 9a**

The processing shall continue for a further one-year period if the applicant so requests (renewed application). Such an application may be made at the earliest six months before the expiry of the processing period. The processing period may be extended for an unlimited number of times. (SFS 1995:298).

**Section 9b**

Attached goods may be sold and funds received reported although the processing period has expired or the processing has been discontinued in accordance with Section 9. This also applies as regards measures against employers in accordance with Chapter 7, Section 21. (SFS 1995:298).

**Section 9c**

If an application relates to attachment without restriction the Enforcement Service shall, to the extent required in view of the content of the application, the debtor's situation and other circumstances, investigate the debtor's employment and income situation and also investigate whether the debtor has attachable property (complete asset investigation). (SFS 1995:298).

**Section 9d**

If an application for attachment only relates to pay or other benefits as referred to in Chapter 7, Section 1 and claims referred to in Section 1 of the Deduction on Repayment of Taxes and Charges Act (1985:146), the Enforcement Service shall investigate the debtor's employment and income situation (restricted asset investigation). (SFS 1995:298).

**Section 9e**

The Enforcement Service shall conduct such an asset investigation referred to in Section 9c or 9d (supplementary asset investigation) if the applicant so requests during the processing period. Such an investigation may be conducted for an unlimited number of times. (SFS 1995:298).

**Section 9f**

If the Enforcement Service becomes aware that the debtor has attachable personal property, this shall be attached even if the application for attachment is restricted in accordance with Section 9d.

Claims referred to in Section 1 of the Deduction on Repayment of Taxes and Charges Act (1985:146) shall always be attached.

Chapter 4, Section 5 contains special rules concerning attachment of real property, registered ships, registered aircraft or spare parts for aircraft subject to registered pledges. (SFS 1995:298).

**Section 9g**

The Enforcement Service shall, in appropriate cases, as soon as possible after the investigation is conducted, advise the applicant whether attachment of pay cannot take place or if the debtor does not have assets for full payment of the attachment claim. (SFS 1995:298).

**Section 10**

Attachment shall take place as soon as possible after the necessary documents have been received by the Enforcement Service.

If the applicant allows postponement with attachment and if the postponement lasts over two months, the application lapses. If the applicant allows postponement more than twice during a one-year processing period, the application also lapses. During the period of postponement, Section 9f, second paragraph and Section 11 shall apply. (SFS 1995:298).

**Section 11**

If two or more attachments have been requested against the same debtor, the attachment for the claims shall take place at the same time, unless attachment for any of the claims would thereby be unreasonably delayed.

The provisions of Chapter 7, Section 17, first paragraph concerning adjustment of maintenance allowance in connection with attachment of pay also applies to other attachment. (SFS 1995:298).

**Section 12**

Before attachment takes place, notification of the case shall be sent to the debtor by post or given in an appropriate manner. The notification shall take place within such time as the debtor can be expected to have sufficient time to protect his rights.

If there is a risk that the debtor will conceal or destroy property or if the matter is otherwise urgent, the debtor need not be notified. Nor is notification necessary if the debtor does not have a known domicile or it has not been possible to establish where he is staying.

**Section 13**

Attachment may take place notwithstanding the absence of the debtor, if it is not necessary to afford him an opportunity of expressing his views at the administration.

**Section 13a**

During the period when neither investigation nor enforcement measures are in progress, the Enforcement Service shall monitor the case. During the period of monitoring, Sections 9f and 11 shall apply. (SFS 1995:298).

## **Duty to provide information**

### **Section 14**

The debtor is liable to provide the information about his assets that is needed in the case.

The Enforcement Service may order the debtor to submit a schedule of his assets. If necessary, the Service may appoint an appropriate person to assist the debtor in the preparation of the schedule.

The debtor may also be ordered to confirm in writing, on his honour and faith, the information about his assets that he has provided at a questioning or in a schedule.

### **Section 15**

A third party is liable to state whether the debtor has claims with him or other affairs with him that may be of relevance for the assessment of the extent to which the debtor has attachable property, and also state in detail the nature of these affairs.

### **Section 16**

Provisions concerning questioning of debtors or third parties and about compulsory measures in conjunction with a request for information from the debtor or third party are contained in Chapter 2, Sections 10 – 16.

## **The relationship to a third party upon attachment of personal property**

### **Section 17**

Personal property may be attached if it is apparent that the property belongs to the debtor or if he shall be deemed to be the owner in accordance with Sections 18 or 19.

**Section 18**

The debtor is deemed to be the owner of personal property if he has it in his possession, unless it is apparent that the property belongs to another.

However, as regards registered ships or registered aircraft, the property is deemed to belong to the debtor if the debtor is registered as owner and it is not apparent that the property belongs to another.

**Section 19**

If the debtor is married and permanently cohabits with her/his spouse and they have personal property in their joint possession, the debtor is deemed to be the owner of the property, unless it is shown to be probable that they are joint owners of the property in accordance with the Joint Ownership Act (1904:48, page 1) and nor is it apparent that the property belongs to the other spouse or to some other person. This also applies when the debtor permanently cohabits with another in circumstances resembling marriage.

If the debtor and someone other than those mentioned in the first paragraph have personal property in their joint possession, the property or a share therein may only be attached if it is apparent that the property or share belongs to the debtor.

The first and second paragraphs do not apply as regards registered ships or registered aircraft.

**Section 20**

If personal property is attached in accordance with Section 17, 18 or 19, although a third party has claimed a superior right to the property, the Enforcement Service shall, if there is reason to do so, order the third party to within one month from the order being served upon him commence an action in the matter against the applicant and the debtor. This also applies if a third party claims a superior right first after attachment has taken place.

If a third party does not comply with the order, his right against the applicant lapses, if he has not within the stated time instituted an action in the matter against the third party.

#### **Section 21**

After attached personal property has been sold or the claim attached has been collected, Section 20 applies as regards the right to funds received, unless the third party has lost his right against the applicant after the order.

#### **Section 22**

If particular personal property is not attached in accordance with Sections 17 – 19, but there is probable cause for the property belonging to the debtor, the property may be attached with a reservation for the rights of the third party.

The Enforcement Service shall, unless it is unnecessary for special reasons, order the applicant to within one month from when the order was served upon him institute proceedings in the matter against the third party. If the applicant does not comply with the order, the attachment shall be revoked, unless the third party within the stated period has instituted proceedings in the matter against the applicant.

The first and second paragraphs do not apply as regards registered ships or registered aircraft.

#### **Section 23**

If a claim or other right has been attached and uncertainty prevails concerning the status of the claim or right, the Enforcement Service shall, if there is reason, order the applicant to within one month from the service of the order upon him institute proceedings in the matter against the third party. If the applicant does not comply with the order, the attachment shall

be revoked, unless the third party within the stated period has instituted proceedings in the matter against the applicant.

The first paragraph also applies where the uncertainty in cases referred to in Section 2, second paragraph, concerns the extent to which an attached pledge certificate or other pledge document comprises security for the claim.

## **The relationship of a third party upon attachment of real property**

### **Section 24**

Real property may be attached if it is apparent that the property belongs to the debtor. If the debtor is the registered owner of the property, attachment may take place, provided it is not apparent that the property belongs to another.

### **Section 25**

When the transfer of real property is dependent upon conditions that have not yet been satisfied, the transfer does not prevent the property from being attached for claims against the transferor. Attachment in such cases also comprises the rights of the transferor against the person who has acquired the property. If the condition is satisfied, the attachment thereafter only applies to the transferor's rights against the transferee.

Attachment of real property may also take place for debts of a person who has acquired the property, even though his acquisition is dependent upon conditions. If his acquisition reverts, the attachment thereafter only comprises the right that he in such cases has against the person who transferred the property.

**Section 26**

If real property is attached and a third party claims a superior right to the property, that stated in Sections 20 and 21 shall apply.

**The attachment effect of a decision by a court or of payment to the Enforcement Service, etc.****Section 27**

If a court or Enforcement Service has determined that a debt due should be paid with a special priority right in a registered ship, registered aircraft, spare parts for aircraft subject to registered pledges or real property, the property is deemed to be immediately attached.

This effect lapses unless a request for sale is made at the Enforcement Service within two months from when the decision or verdict entered into final legal force. The attachment effect also lapses if a creditor gives notice to the Enforcement Service that he will not request a sale.

A request for sale is made at the Enforcement Service which in accordance with Section 8 is competent to consider the issue of attachment. However, sale of real property shall be requested at the Enforcement Service in the region where the property is located. This Enforcement Service may transfer the case to another Enforcement Service, if this is necessary to co-ordinate enforcement against a debtor. (SFS 1996:1437).

**Section 28**

Funds that the debtor pays to the Enforcement Service in a pending case are deemed to be immediately attached in the case, unless the payment was not made subject to conditions contrary hereto.

## Effect of attachment

### Section 29

When attachment has been decided, the debtor may not to the detriment of the applicant control the property by a transfer or in any other way, unless the Enforcement Service after hearing the applicant allows this for special reasons.

The first paragraph does not impede the pledging of mortgage certificates or other mortgage documents that apply to the property. There are provisions contained in Chapter 6, Section 5 and Chapter 12, Section 5 concerning prohibitions on the pledging of such document when it has been taken into care by the Enforcement Service.

There are provisions contained in Chapter 6, Section 4, second paragraph and Chapter 12, Sections 6 – 10 concerning the use of attached property, etc.

### Section 30

Attachment involves a priority right as of the decision, unless otherwise prescribed by the second or fourth paragraph or Chapter 7, Section 13.

Attachment in Sweden of a registered ship or aircraft, spare parts for such aircraft subject to registered pledges or real property does not entail a priority right before the matter concerning the notation of the attachment is entered on the registration date. If more than one such matter is entered on the same registration date, the attachment that took place first shall have priority. If a ship or aircraft that is registered in Sweden has been attached in a foreign State before it has been taken care of by the Enforcement Service, that right that has been gained by the prior attachment shall apply as a mortgage right.

Attachment of real property involves priority before rights in the property, provided matters concerning notation of attachment are entered not later than on the registration date when the registration of the right was requested.

Attachment of a right that is registered in accordance with the Bookkeeping of Financial Instruments Act (1998:1479) involves a priority right by registration of the attachment in accordance with that Act. If a right that is administered in accordance with Chapter 3 of the said Act is attached, the priority right arises instead through notification of the attachment to the administrator. This also applies if the attachment relates to a mortgage right in a right that is administered in accordance with this Chapter. (SFS 1998:1484).

### **Section 31**

Attachment entitles the Enforcement Service to implement those measures concerning the property that are necessary to protect the applicant's right. In that connection the Enforcement Service has the same powers that otherwise belong to the owner of the property. However, the Service may not institute proceedings at court or answer in a case concerning the property.

## **Coincidence of attachments**

### **Section 32**

If a particular property is attached by more than one Enforcement Service, the case shall in the future be dealt with jointly by the Enforcement Service that the authorities decide following consultation or that is appointed by the Enforcement Service in the region where the debtor is domiciled.

Before the Enforcement Service transfers a case in accordance with the first paragraph, it shall implement such measures as are prescribed in Chapter 6 that should not be deferred. (SFS 1996:1438).

## **Revocation of attachment and other rectification**

### **Section 33**

If it is established through litigation or by other means that attached property belongs to a third party, the attachment shall be revoked, unless the third party after the order has lost his rights against the applicant. If the property has been sold, the revocation of the attachment only applies to the right to funds received.

The attachment shall also be revoked if sale of the property or collection of attached claims cannot be assumed to yield a surplus that justifies the measure or if the debt claimed may be assumed to be satisfied by attachment of pay during the period of processing. (SFS 1995:298).

### **Section 34**

If the Enforcement Service for other reasons than those stated in Section 33 considers that particular property should not have been attached, rectification shall take place. However, such rectification may not be implemented later than two weeks from the attachment decision.

### **Section 35**

The Enforcement Service shall, unless there are special reasons for doing otherwise, hear the applicant before rectification takes place in accordance with Sections 33 and 34.

## **Special provisions concerning public cases**

### **Section 36**

The provisions contained in Sections 9, 10 and 13a do not apply to public cases. Provisions concerning collection in public cases

are contained in the Collection of State Debts, etc. Act (1993:891). (SFS 1995:298).

# Chapter 5 Exemptions from attachment

## **Exemptions having regard to the needs of the debtor**

### **Section 1**

The following are exempted from attachment:

1. clothes and other objects that are used exclusively for the personal use of the debtor, to a reasonable value,
2. furniture, household goods and other equipment, to the extent that the property is necessary for a home and its care,
3. work tools and other equipment that are needed for the debtor's income-earning activities or professional education and also animals, foodstuff and the like that is otherwise needed for his maintenance, all to a reasonable value,
4. objects of such a predominantly personal value for the debtor that it must be deemed obviously unfair to lay claim to the property,
5. tenancy right to an apartment that serves as the permanent dwelling for the debtor or which is needed for his income-earning activities, even if the tenancy right may be transferred,
6. a tenant-owner right to an apartment that serves as the permanent dwelling of the debtor, unless the debtor upon the acquisition of the tenant-owner right has failed to have sufficient regard to his creditors, or having regard to the needs of the debtor and the value of the tenant-owner right, it is unreasonable that the tenant-owner right is exempted from attachment,

7. money, bank balances, other claims and necessities, to the extent it is not otherwise prescribed and the assets are reasonably required for maintenance of the debtor until such time as income that covers this need is expected, though not without exceptional reasons for a period exceeding one month.

### **Section 2**

If the debtor has a family, that which may be exempted in accordance with Section 1 shall be decided also having reasonable regard to what the family uses or needs.

If the debtor or someone who belongs to his family suffers from a disability or serious illness, this shall also be taken into account.

Exemptions in accordance with Section 1, item 7 are decided also having reasonable regard to the debtor's maintenance obligations.

### **Section 3**

In connection with the attachment of the estate of a deceased person, Sections 1 and 2 apply as regards the property belonging to the estate of the deceased that the surviving family of the deceased uses or needs. However, instead of Section 1, item 7, such property as is referred to there shall be exempted to the extent it is necessary for maintenance in accordance with Chapter 18, Section 5, second paragraph, of the Inheritance Code.

Otherwise, Sections 1 and 2 are not applicable in connection with attachment at a legal person.

### **Section 4**

If property referred to in Section 1, items 1 – 3 is of such value that it cannot be exempted in accordance with that stated there,

attachment may take place with the reservation that the debtor, after the sale of the property, shall from the price received obtain a certain reasonable amount in order to be able to acquire what he needs to substitute the property sold.

## **Exemptions on the basis of the nature of the property or special provision**

### **Section 5**

Nor may property be attached that due to its nature, or a provision in connection with a gift or contained in a will or which may not be transferred on other grounds that apply in relation to everybody, unless prescribed by the second paragraph or by a special provision.

Property that the debtor has acquired on credit with a reservation of a right to resume possession for the credit provider, may be attached notwithstanding the fact that the property may not be transferred.

### **Section 6**

Funds that for a particular stated purpose have been directed to the debtor by the State, a municipality or other public body or by an association, foundation or establishment with public benefit objects or which has been collected from the public may not be attached if this would contravene the stated object.

After such funds have been paid out, the prohibition against attachment applies as long as they are held separate.

### **Section 7**

Damages, which are due to the debtor as a result of personal injury, deprivation of liberty, false prosecution, defamation or the like, may not be attached while the damages are outstanding with the person who shall pay them. If the damages have been

decided to be paid as an annuity, that stated here applies to the right to the annuity.

After the damages have been paid out, that which is held separately may not be attached, provided the damages shall satisfy needs of support that still subsist or, in other cases, if less than two years have elapsed from when the funds were paid out.

### **Section 8**

Entitlement to a pension or other annuity than those referred to in Section 7 may not be attached to the extent that the right is required for the maintenance of the debtor and fulfilment of a maintenance obligation to which he is subject. However, this does not apply if the debtor upon the acquisition of the right has failed to have sufficient regard to his creditors.

### **Section 9**

When a right to literary or artistic works or the like may not be attached, nor may the right to payment for use of the right be attached before this has been exercised as anticipated as a precondition for the payment to be made and the payment can be computed.

### **Section 10**

Special provisions apply concerning prohibition of attachment in certain other cases.

### **Section 11**

Chapter 7 contains provisions concerning attachment of pay and other benefits.

**Section 12**

Nor may funds that may not be attached while they remain with another be attached after they have been paid before the day following the payment.

**Mortgaged property, etc.****Section 13**

The provisions concerning prohibition of attachment contained in Sections 1 – 9 do not prevent property referred to there being attached for claims that are combined with mortgage rights or rights of retention in the property.

Nor do the said provisions prevent attachment of property that has been made subject to provisional attachment for the claim or taken in claim by a payment security.

**Procedure in connection with the consideration****Section 14**

The debtor shall provide the information that is available to him and which is necessary for the Enforcement Service to consider what should be exempted from attachment. The Service shall act according to what is known or what can be ascertained without repetition.

**Section 15**

If the debtor nominates particular property for attachment, the provisions concerning prohibition of attachment contained in Sections 1 – 12 do not impede the property being attached, if it can be transferred and attachment does not manifestly violate that which is called for having regard to the needs of the debtor or his family.



# Chapter 6 Safeguarding attachment

## Personal property

### Section 1

Attachment of personal property shall be safeguarded in accordance with that stated in this chapter.

Safeguarding in accordance with Sections 2 – 8 shall take place without delay. If a registered ship or aircraft is attached in Sweden although an impediment exists against safeguarding of the attachment, the safeguarding shall take place without delay after the impediment has lapsed.

When a registered ship, registered aircraft or spare parts for aircraft subject to registered pledges in accordance with Chapter 4, Section 27 is deemed to be attached, measures for safeguarding shall not be implemented without a special request before a sale has been requested.

### Section 2

Money together with negotiable promissory notes and other documents, the presentation of which comprises a condition for the right to demand payment or call for satisfaction of another obligation, shall be taken into care.

If a mortgage certificate in a ship or land unit or a promissory note that is registered against an aircraft or spare parts for aircraft are attached at the owner of the property registered, the mortgage certificate or mortgage document should be taken into

care. If the decision concerning attachment of a mortgage certificate relates to a computerised mortgage certificate, the Enforcement Service shall request that the National Land Survey issue a written mortgage certificate in accordance with Section 8 of the Mortgage Certificate Register Act (1994:448).

If it may be assumed that a document referred to in the first or second paragraph is concealed or has been lost, the secondary debtor or another person subject to the obligation shall instead be notified of a prohibition to satisfy his obligations to anyone other than the Enforcement Service or the person directed by the Service.

Attachment of a right that is registered in accordance with the Bookkeeping of Financial Instruments Act (1998:1479) shall be protected by registration of attachment in accordance with that Act. If a right that is administered in accordance with Chapter 3 of the said Act is attached, protection of the right shall instead take place by notification of the attachment to the administrator. This also applies if attachment relates to a mortgage right in a right that is administered in accordance with this Chapter. (SFS 1998:1484).

### Section 3

If another claim or right than is referred to in Section 2 is attached, the secondary debtor or other person subject to an obligation shall be notified of a prohibition of fulfilling his obligations to anyone other than the Enforcement Service or the person directed by the Service.

In connection with attachment of rights referred to in Chapter 7 of the Land Code or of a building on a non-freehold site, the owner of the land unit shall be notified. Attachment of a tenant-owner right shall be notified to the tenant-owner association.

**Section 4**

Other personal property than that referred to in Sections 2 and 3 shall be taken into care or, if it has left the possession of the debtor, be sealed or marked as attached, unless this is manifestly unnecessary.

Attached property that is not taken into care or sealed may be used by the debtor, unless the Enforcement Service otherwise decides.

**Section 5**

A mortgage certificate or other pledge/mortgage document that applies to an attached ship or aircraft or to attached spare parts for aircraft or to attached personal property that belongs to a business operation and which is not being used for credit may be taken into care. After the document has been taken into care, it may not be mortgaged without the permission of the Enforcement Service. (SFS 1984:653).

**Section 6**

Reservations of a right of repossession do not prevent the property being taken into care, sealed or marked, if it has been attached at the transferee.

The transferor shall be notified of the attachment.

**Section 7**

Property that is in the possession of a third party may be taken into custody, sealed or marked, when such a measure is prescribed by Sections 2 – 5. If a decision concerning attachment of a mortgage certificate relates to a computerised mortgage certificate and a third party is registered as the holder of the mortgage certificate, the Enforcement Service may request the National Land Survey to decide that the registration may not be

removed from the mortgage register and that no new mortgage holder may be registered.

As regards mortgage certificates and other mortgage documents that are used for credit, the provisions of the first paragraph shall only apply if there are special reasons to do so. If the property is not taken into custody or a decision as referred to in the first paragraph, second sentence, is not made, a prohibition shall instead be issued to the holder against releasing the property or implementing any other measure of detriment to the applicant without the permission of the Enforcement Service.

If a third party has a possessory pledge right or a right of retention in property that is taken into care, the Enforcement Service holds the property on his behalf. (SFS1995:1398).

### **Section 8**

A document, which is not mentioned in Section 2 or 5 but which evidences the debtor's right to attached property or whose taking into care is called for in order to prevent disposal of the property or which is necessary to use the same, may be taken into care. This also applies if the document is held by a third party.

### **Section 9**

The Enforcement Service shall as soon as possible schedule and value personal property that is attached. An expert shall be engaged for the valuation if necessary.

Documents that are taken into care shall also be scheduled.

### **Section 10**

In addition to that prescribed by Sections 1 – 9, the Enforcement Service shall implement the measures that are necessary in each individual case to safeguard the attachment.

**Section 10a**

When an attached ship or aircraft is under the control of the Customs, the Enforcement Service may request the assistance of the Swedish Customs in order to prevent the ship or aircraft departing. In order to prevent the ship or aircraft departing, the Swedish Customs has the same powers that the Service has in accordance with the Customs Act (2000:1281). This also applies when goods on a ship or aircraft have been attached. (SFS 2000:1286).

**Section 11**

If property that has already been attached for another claim or which is subject to provisional attachment is attached, the measures for protection of the attachment shall be adapted accordingly.

**Provisional measure****Section 12**

If attachment of particular personal property is not implemented immediately, the Enforcement Service can nonetheless if necessary take the property into care or implement another measure as referred to in Sections 1 – 10.

When such a measure has been implemented, that stated in Chapter 4, Section 29 shall apply.

The measure may not remain in force longer than is necessary. If attachment has not ensued within two weeks, the measure shall be revoked.

## **Real property**

### **Section 13**

Chapter 12, Sections 3 – 10 contain provisions concerning protection of attachment of real property and concerning the use of such property.

### **Section 14**

If real property in a case as referred to in Chapter 4, Section 25 is attached, the transferee or, when the attachment is made at the transferee, the transferor shall be notified and a prohibition issued to him against payment or repayment of the purchase price or the provision that anything on the basis of the contract that may be due to the debtor shall not be made to anyone other than the Enforcement Service or a person directed by the Service.

# Chapter 7 Attachment of pay, etc.

## General provisions

### Section 1

The provisions of this Chapter apply as regards attachment of

1. employees' pay, whether it is paid as hourly pay, piece-work pay, commission or other satisfaction,
2. other remuneration for work efforts by the debtor, if his status is comparable with that of an employee,
3. periodic payments for use of a patent, rights to literary or artistic works or other such rights or for the transfer of a business,
4. payment that comprises a pension or annuity,
5. sick pay, parental benefits, rehabilitation benefit, benefits under the Compensation for Leave to Care for Relatives Act (1988:1465) and other payments that are provided as a result of illness, contagion, accident, education, unemployment, compulsory military service or other service that is compensated with the same or similar benefits as compulsory military service, all to the extent that the compensation is not intended to compensate particular expenses specified or shall be repaid.

The provisions of this chapter are not applicable when the debtor is the estate of a deceased person or other legal person. (SFS 1995:298).

**Section 2**

That prescribed concerning attachment of pay also applies to attachment of other benefits as referred to in Section 1, unless otherwise stated. The provisions concerning employers in that connection apply to the person who pays the benefit. (SFS 1995:298).

**Conditions for attachment****Section 3**

Outstanding pay from an employer may be attached by the employer being ordered to retain and pay out a particular part of the pay to the Enforcement Service. The decision concerning attachment may relate to future payments of pay or a particular item of pay.

Attachment of pay shall take place only if this is justifiable having regard to the amount that may be expected to be received. (SFS 1995:298).

**Section 4**

Pay may be taken in claim by attachment only to the extent that it exceeds what the debtor needs for his and his family's maintenance and also to satisfy payment obligations to others who upon attachment of pay have a superior right to the pay. In connection with the attachment of claims with priority rights in accordance with Section 14, first paragraph, item 1, an obligation to pay to another who also has the same rights as the applicant shall be taken into account.

If attachment relates to piece-work pay, commission or other compensation that is outstanding for a period longer than one month, particular regard shall be taken to this circumstance. (SFS 1996:1032).

**Section 5**

That part of the pay that cannot be taken in claim through attachment (reserve amount) is decided with the guidance of an amount multiplied by a figure that specifies the relationship between the general price level in the month of October in the immediately preceding year and the price level in October 1993 (normal amount). This amount is 43,800 kronor for single persons, 72,360 kronor for cohabiting spouses and persons equated thereto, 23,240 kronor for each child up to and including the calendar year when the child attains the age of six years and 26,750 kronor for time thereafter.

The normal amount shall be deemed to comprise all ordinary living expenses except housing expenses, which are calculated separately and added to the normal amount.

The normal amount is determined every year by the Government or by the authority appointed by the Government. (SFS 1995:298).

**Section 6**

Attachment of pay for maintenance allowance as referred to in Chapter 4, Section 1a, first paragraph, may only take place if the amount of the allowance remains unpaid or if the debtor on two or more occasions during the last two years prior to the attachment decision has failed to pay within the proper time and there is cause to assume that this may be repeated.

Attachment may only take place of allowance sums that are due when enforcement shall take place or which fall due for payment immediately thereafter. This also applies in connection with attachment for claims that relate to repayment obligations in accordance with the Maintenance Support Act (1996:1030). (SFS 1996:1032).

## **Procedure**

### **Section 7**

Before a decision concerning attachment is made, the debtor should be given an opportunity to express his views, unless this would substantially delay the processing. However, unless there are special reasons for so doing, the debtor need not be heard when he changes employment and a decision shall be made concerning attachment with the new employer. (SFS1995:298).

### **Section 8**

Upon the attachment of pay, the Enforcement Service shall first decide how much at most may be retained on each occasion of payment of pay (attachment amount), second the reserve amount. Instead of determining an attachment amount, the Service may decide that all pay that exceeds the reserve amount shall be taken in claim.

Upon the attachment of sick pay or other daily benefits as referred to in Section 1, first paragraph, item 5, the attachment amount and the reserve amount are determined per day. If such payment is paid out for more than one day, the attachment amount and the reserve amount for all days that are included in the payment period are aggregated. (SFS 1995:298).

### **Section 8a**

Upon the attachment for a lump sum that relates to maintenance allowance with a right of priority in accordance with Section 14, the Enforcement Service shall, if necessary, divide the amount into special posts according to what is reasonable having regard to the period that the amount relates to and other circumstances. These special items are deemed upon attachment to be due in accordance with that decided in connection with the division. (SFS 1995:298).

**Section 9**

If there are special reasons, the Enforcement Service may order the employer to adapt the manner for payment of pay so that attachment can be enforced in the proper manner. (SFS 1995:298).

**Section 10**

A decision concerning attachment shall be amended, if there is reason to do so. Before an amendment that is detrimental to the debtor is decided, the debtor shall be given an opportunity to express his views, unless this is manifestly unnecessary. Nor need such an opportunity be given if the decision cannot be postponed.

A decision concerning attachment for maintenance allowance as referred to in Chapter 4, Section 1a, first paragraph, shall be revoked if the debtor pays the outstanding allowance and administration expenses arising and there is reason to assume that the debtor will also in the future satisfy the allowance obligation. (SFS 1995:298).

**Section 11**

The Enforcement Service may, at the request of the applicant or the debtor, grant respite during a pending attachment of pay. However, at the request of the debtor, respite may only be granted with the consent of the applicant or if there are special reasons. (SFS 1995:298).

**Section 12**

The Enforcement Service shall notify the employer of a decision concerning attachment and decisions on matters referred to in Sections 9 – 11. (SFS 1995:298).

## Priority ranking

### Section 13

Attachment of pay involves a priority right when the amount that shall be retained has become due for payment.

When sickness benefit or other daily benefit as referred to in Section 1, first paragraph, item 5, is paid for more than one day, the benefit shall be deemed to be due for payment with the attachment amount for every day that the benefit period comprises. (SFS 1995:298).

### Section 14

In connection with the attachment of pay, the following claims have priority in the following order before other claims of debt:

1. claims that relate to maintenance allowance in accordance with the Marriage Code and Parental Code together with claims that relate to repayment obligations in accordance with the Maintenance Support Act (1996:1030),
2. claims of a bankruptcy estate on the debtor's pay in accordance with Chapter 3, Section 4 of the Bankruptcy Act (1987:672), if pay has been retained during the bankruptcy,
3. claims referred to in Section 2 of the Collection of State Debts, etc. Act (1993:891).

The right of priority in accordance with the first paragraph, item 1, applies also to such foreign maintenance allowance which may be enforced in Sweden, provided the allowance debt at the time of enforcement is not older than five years. (SFS 1996:1032).

### Section 15

Deduction for preliminary tax has priority before attachment of pay. A claim in accordance with Section 14, first paragraph, item 1, has priority before administration costs in the case. (SFS 1997:490).

**Section 16**

In the event of simultaneous attachment for several claims with priority rights in accordance with Section 14, first paragraph, item 1, the amount retained shall be distributed according to the current amount of the claims. If a greater amount than that corresponding to the current claims has been attached, an amount that has been outstanding longer has priority upon the distribution of the surplus amount.

A part payment that is received for the claim of a particular claimant is deducted in the first instance from the claim that has been outstanding longest. (SFS 1996:1032).

**Section 17**

If the debtor lives together with his/her spouse and the maintenance allowance to the spouse or to the spouse's children exceeds that which reasonably should be due to the person entitled to maintenance, the allowance when applying Sections 14 and 16 may be adjusted having regard to other claims for which attachment takes place simultaneously. If there are special reasons, such adjustments may also take place to other maintenance allowance, if this allowance exceeds what may reasonably be required for the support of the person entitled to maintenance.

If the debtor is entitled to a deduction in accordance with Chapter 7, Section 4 of the Parental Code or Section 23, second paragraph of the Maintenance Support Act (1996:1030), the amount that on this ground is credited to him may not be claimed by attachment for the debt, if it is due to someone other than the person entitled to maintenance or someone who has taken their place, or for claims that relate to maintenance support to the same child. (SFS 1996:1032).

**Section 18**

If attachment for a claim with a priority right in accordance with Section 14 has been granted as a benefit as referred to in Section 1, first paragraph, items 3 or 4, and if this right thereafter is as such attached for another debt, the former claim has priority to payment from that received as a consequence of the later attachment. As regards claims with priority rights in accordance with Section 14, first paragraph, item 1, this applies as regards the amount that has become due for payment when the decision on attachment of the right was made or falls due immediately thereafter.

If attachment is granted for a benefit as referred to in Section 1, first paragraph, items 3 or 4, for some other claim than as referred to in Section 14 and if thereafter the right as such is attached for a further debt, the latter attachment shall be deemed to have taken place also for the unpaid part of the preceding claim. (SFS 1996:1032).

**Section 19**

Even if the debtor is in bankruptcy, attachment may take place in accordance with this Chapter for claims with priority rights in accordance with Section 14, first paragraph, item 1. Attachment may also take place on behalf of the bankruptcy estate.

If the debtor is put into bankruptcy during a pending attachment of pay for any other claims than such as have a right of priority in accordance with Section 14, first paragraph, item 1, the attachment shall continue on behalf of the bankruptcy estate, unless the bankruptcy administrator requests that enforcement shall cease. (SFS 1996:1032).

## Obligations of employers

### Section 20

The employer shall retain the attachment amount only to the extent that the pay exceeds the reserve amount.

The employer shall pay out the retained amount to the Enforcement Service at the time and in the manner decided by the Service. The Enforcement Service may, in those cases prescribed by the Government, decide that the amount retained shall be paid out to another authority than the Enforcement Service.

If there is special cause for so doing, the employer may be ordered to immediately pay out the amount retained to the Enforcement Service. (SFS 1995:298).

### Section 21

If the employer pays out pay in manifest violation of a decision concerning attachment or if he fails within the prescribed period or upon demand to pay out the retained amount to the Enforcement Service, immediate enforcement against the employer may be sought for what he should have retained or has retained. (SFS 1995:298).

### Section 22

If the debtor works in the income-earning activity of another without pay or for remuneration that is manifestly too low and if attachment can therefore not take place or only take place for an amount that is too low, the Enforcement Service may order the employer, for the period after when a decision thereon has been made and until otherwise decided, to pay to the Enforcement Service so much as could have been taken out by attachment, if reasonable pay had been paid for the work. Before such a decision is made, the debtor and the employer should be given an opportunity to express their views.

A measure referred to in the first paragraph is regarded as attachment of pay. If the employer fails to pay an amount that has been decided by the decision, that stated in Section 21 applies. (SFS 1995:298).

## **Special provisions**

### **Section 23**

If an employer has retained funds in connection with attachment of pay in a public case for a claim with a right of priority in accordance with Section 14, first paragraph, item 1 or 3, the debtor is no longer obligated to pay that part of the claim that corresponds to the amount retained, even if it cannot be collected from the employer. This also applies when funds have been retained for claims that relate to maintenance allowance, if the debt is due to a public social insurance office in accordance with Section 31 of the Maintenance Support Act (1996:1030). (SFS 1996:1032).

### **Section 24**

After pay has been paid out, the funds may only be attached in accordance with that stated in Chapter 5. (SFS 1995:298).

## **Penal provision**

### **Section 25**

An employer who intentionally or by carelessness neglects to pay within the prescribed period an amount to the Enforcement Service that should have been retained in accordance with a decision concerning attachment shall be sentenced to a fine. (SFS 1995:298).

# Chapter 8 General provisions concerning compulsory sale, etc.

## **Introductory provisions**

### **Section 1**

Attached property is sold through the agency of the Enforcement Service.

Chapter 9 contains provisions concerning collection of attached claims and concerning measures following attachment regarding mortgage certificates or pledged promissory notes.

Provisions concerning sale of attached property apply in relevant parts also when property is to be sold compulsorily during a bankruptcy.

### **Section 2**

If the applicant as regards property for which the protected amount in accordance with Chapters 10 – 12 shall be decided shows that his claim is linked to a better special right of priority than would be due on attachment, he can request that the conditions of sale are decided having regard to the first-mentioned right of priority. In this connection, that prescribed concerning a creditor's right of joinder shall apply.

## **Time limits for sale and impediments to sale**

### **Section 3**

Sale of attached property shall take place without delay, unless an impediment is encountered. Chapters 10 – 12 prescribe special time limits concerning property referred to therein.

The Enforcement Service may grant respite with sale upon the request of the attachment applicant or debtor. At the request of the debtor, respite is only granted if the attachment applicant consents or if there are special reasons.

### **Section 4**

When attachment has taken place pursuant to Chapter 3, Section 6, the property may not be sold without the consent of the debtor before an enforcement title has entered into final legal force. This also applies when attachment has taken place on the grounds of a verdict or decision in a case concerning a payment order or enforcement assistance and the debtor has requested re-opening or has appealed.

Nor may personal property that is of substantial value or real property be sold in other cases without the consent of the debtor, unless an enforcement title has entered into final legal force or may be enforced as a judgment that has entered into final legal force.

Personal property that rapidly falls in value or requires care that is too expensive shall, notwithstanding the first or second paragraph, be sold as soon as possible. (SFS 1990:748).

### **Section 5**

If a third party or the applicant has been ordered to institute an action in accordance with Chapter 4, Sections 20, 22 or 26, the attached property may not without the consent of the third party be sold before the dispute has been finally determined or, when the order has been given to a third party, the period for

institution of actions has expired. However, sale may take place if it may be assumed that the dispute will not influence the price to a substantial extent or if the property is such as referred to in Section 4, third paragraph, of this Chapter.

If legal proceedings are pending in another case concerning attached property, the Enforcement Service may grant such respite with the sale that is called for in the circumstances.

### **Section 6**

When attachment has taken place at the estate of a deceased person, the property may not be sold without the consent of the estate of the deceased before one month has elapsed from when the estate inventory was drawn up or the period for the drawing up of the estate inventory expired or, if the estate is being administered by an estate administrator, before a settlement has been made with the creditors. However, a sale may be made if the applicant has a special right of priority in the property on grounds other than the attachment or if the property is such as is referred to in Section 4, third paragraph.

When a share in an estate of a deceased person has been attached, distribution of the estate ought to be postponed unless this involves unreasonable delay.

### **Section 7**

Chapter 12 contains special provisions concerning impediments to sale of real property.

## **Shares in property**

### **Section 8**

If attachment has taken place of a share in particular property that belongs to two or more persons and the Joint Ownership Act (1904:48, page 1) applies, the Enforcement Service may,

upon the request of the applicant, debtor or other part-owner, order that the entire property shall be sold. If any of the named parties in the case have presented such a claim, the others shall be afforded an opportunity to express their views on the claim. Sections 6 and 7 of the Joint Ownership Act apply to matters concerning impediments to sale.

The first paragraph does not apply to a share in a debt if the share can be collected separately without inconvenience. If this is not the case, the first paragraph applies to matters of both the collection and sale of the entire claim.

### **Section 9**

If an application for sale as referred to in Section 8 is granted, the entire property is deemed to be attached. Sale may not take place before the decision has entered into final legal force, unless the property is such as is referred to in Section 4, third paragraph.

If a claim as referred to in Section 8 is not presented or if such a claim is not granted, the share attached shall be offered for sale in the manner applicable for compulsory sale of attached rights or, as regards shares in claims, be collected when it is possible. This also applies if a claim as referred to in Section 8 has been granted but sale of the entire property or collection of the entire claim is not realised.

## **Right of third party to payment**

### **Section 10**

When attachment has taken place of a ship other than a registered ship or goods on a ship or of an aircraft that is not registered or goods in an aircraft, the creditor, whose claim is linked to a maritime mortgage right or aviation mortgage right in the property, is entitled to receive payment out of the property, provided he notifies his claim to the Enforcement Service before

the property is sold or, if sale takes place privately, not later than when the distribution should take place.

A creditor who has made an application as referred to in the first paragraph may, if his right to payment is indisputable or proven, request that the property is sold for his claim. If such a request has been presented, the proceedings may not be discontinued because the issue of sale for the attachment applicant's claim lapses.

### **Section 11**

A creditor, whose claim is linked to a possessory pledge or a retention right in attached property, is liable to accept payment in advance in the order stated in Chapter 13. However, he is not obliged to waive his pledge or retention right without his claim being paid, unless a sale or, as regards an attached debt, collection for the claim is made with a similar or superior right.

### **Section 12**

A creditor, whose claim is linked to a priority right in attached property on the grounds of registration of a boat construction advance, is entitled to receive payment out of the property, provided he notifies his claim in accordance with that stated in Chapter 10, first paragraph.

### **Section 13**

A creditor, whose claim is linked to a corporate charge or otherwise to a right of priority in the attached property in accordance with Section 5 of the Rights of Priority Act (1970:979), is entitled to receive payment out of the property, provided he gives notice of his claim to the Enforcement Service before the property is sold or, if sale takes place privately or an attached claim is collected or sale in another case is not necessary, when the distribution shall take place at the latest.

However, the applicant has priority to the extent that payment to a creditor as referred to in the first paragraph is unnecessary to protect the creditor and those who have a subordinate right of priority in the property in accordance with Section 5 of the Rights of Priority Act. When considering the matter, regard shall also be taken to security that the creditor has on another basis in property belonging to the debtor. (SFS 1984:653).

#### **Section 14**

Repealed by SFS 1994:480.

#### **Section 15**

If property is sold compulsorily in the course of a bankruptcy, payment shall be made for the expenses of the bankruptcy estate that may be taken out of the property in accordance with Chapter 14, Section 18 of the Bankruptcy Act (1987:672), providing these costs are reported in accordance with that stated in Section 10, first paragraph.

When property is sold compulsorily in the course of a bankruptcy or an attached claim is collected in the course of a bankruptcy, a creditor whose claim is linked with a priority right in accordance with Section 10 of the Rights of Priority Act (1980:979) is also entitled to receive payment out of the property, provided he gives notice of his claim in accordance with that stated in Section 13, first paragraph. (SFS 1987:684).

#### **Section 16**

The provisions of Chapters 10 – 12 apply concerning rights to payment when a registered ship, registered aircraft, spare parts for aircraft subject to registered pledges or real property have been attached.

Chapter 13 contains provisions concerning the right to payment out of a surplus when a claim has not been notified in time.

## **Discontinuance of enforcement**

### **Section 17**

Enforcement shall be discontinued if funds received are sufficient to cover the applicant's claim and claims with an equal or superior right to payment from the funds together with expenses that shall be taken out in the case.

Section 10, second paragraph, together with Chapter 10, Section 5, Chapter 11, Sections 1 and 2 and Chapter 12, Section 13 contain exceptions to the first paragraph.

## **Enforcement assistance after sale**

### **Section 18**

When attached property has been sold, the purchaser is entitled to receive, if necessary, enforcement assistance by the Enforcement Service in order to take possession of that which he has acquired. In that connection, the applicable parts of that stated in Chapter 16, Sections 2 – 9, 11 and 12 shall apply.

## **Special provisions concerning public cases**

### **Section 19**

The provisions of Section 3 do not apply in public cases. In such cases the sale of attached property shall take place without delay, unless there is an impediment or respite is granted by the Enforcement Service.



# Chapter 9 Sale of personal property generally and collection of attached claims, etc.

## **General provisions concerning sale**

### **Section 1**

Attached personal property is sold by public auction or privately. As regards private sales, special preconditions apply in accordance with Section 8.

The Enforcement Service may assign another to hold an auction.

This Chapter does not apply to such personal property as is referred to in Chapters 10 or 11.

## **Sale by auction**

### **Section 2**

Public notice of an auction should be given in good time and in an appropriate manner. If it may be expected that a meeting needs to be called for distribution of the purchase price, the public notice shall contain information about the meeting.

The applicant, the debtor and other known parties in the case whose rights are affected by the sale shall be separately notified of the sale in good time.

### **Section 3**

At the auction the Enforcement Service shall, if there is reason to do so, provide a short description of what has occurred in the case. Furthermore, if there is reason, the creditor who is entitled to payment from the property shall be directed to notify his claim together with the conditions of sale stated.

### **Section 4**

A bid may not be accepted if it is probable that a substantially greater price may be attained.

If a third party has a possessory pledge or right of retention in attached property and if this is sold for claims with a subordinate right, sale may only take place if the price is sufficient for the payment of the third party's claim.

Notwithstanding the first and second paragraphs, a bid shall be accepted if all parties involved consent to this.

### **Section 5**

If a bid for property is accepted the purchase price shall be paid immediately. However, the Enforcement Service may grant respite with payment, except as regards a deposit as decided by the Service. The property shall be retained until full payment has been made.

If the price or deposit has not been paid immediately after the bid is accepted, the property shall be offered for bids again.

If respite has been given, the bid accepted shall be invalid if full payment is not made within the prescribed period.

### **Section 6**

If an acceptable bid is not made that is completed by the purchase price or deposit being immediately paid, a new attempt at sale shall be made, unless the applicant declines to do so. The

same also applies if a bid has become invalid in accordance with Section 5, third paragraph.

If two auctions have been held without the property having been sold and if there is reason to assume that the property can be sold within a reasonable time, a new attempt at sale shall not be made.

If a new auction shall be held, that stated in Sections 2 – 5 applies. Notification of claims that have been made for an auction also apply for later attempts at sale.

If a new attempt at sale is not made, the attachment shall be revoked. However, this does not apply if funds have been received or are being received as a result of measures already taken.

### **Section 7**

If a new auction has been held since a bid has become invalid in accordance with Section 5, third paragraph, the deposit shall be used for payment of the administration expenses for the previous auction and for the care and administration of the property from when the bid became invalid until the time when a new auction has been held. If the purchase price at the new auction is less than the bid that was accepted at the previous auction, the remainder of the deposit shall be used to cover the difference. That which need not be taken in claim shall be returned when the new purchaser has paid the purchase price. If the property is not sold at the new auction, the entire deposit is forfeited.

If a new auction is not held, the deposit shall be used for payment of the administration expenses that have been wasted. That which does not need to be taken in claim shall be returned.

## **Private sale**

### **Section 8**

Attached property may be sold privately, if it is probable that a greater purchase price may thereby be achieved and such sale is also otherwise suitable for the purpose. The applicant, the debtor and other known parties to the case whose rights depend upon the sale shall be afforded an opportunity to express their views on the matter, if there is reason to do so.

However, a private sale shall not be conducted if the property is subject to a maritime or aviation mortgage right or uncertainty prevails concerning this and it is also not known who is claiming such mortgage right or where he is staying.

### **Section 9**

Before the property is sold privately, offers shall be invited. Sections 4 and 5 apply as regards the terms of sale.

If an acceptable offer is not made, an auction shall be announced. However, this does not apply if the applicant declines to do so or if an auction has been held previously and there is consequently no cause to assume that the property may be sold within a reasonable time. If a new attempt at sale shall not be made, Section 6, fourth paragraph applies.

If the sale is invalid as a consequence of full payment not being made within the stipulated period, the provisions of Section 7 apply. That stated in Section 7, first paragraph, also applies to a private sale.

## **Sale of property that is held subject to a reservation of a right of repossession**

### **Section 10**

If attachment has been made of property that the debtor has acquired on credit subject to a reservation of right of

repossession for the credit provider, the property may only be sold if the purchase price is sufficient for payment of the credit provider's claim or the sale takes place with the consent of the credit provider in the case subject to a reservation for his rights under the contract.

The credit provider's claim is decided in accordance with Section 24 of the Consumer Credit Act (1992:830) or in accordance with Section 5 of the Credit Sales Between Undertakings, etc. Act (1978:599). If neither of these Acts is applicable to the contract, the claim is nonetheless decided in accordance with the latter Section, in which connection an adjustment may be made according to what is reasonable.

If the sale takes place with the reservation for the credit provider's rights, the person who acquires the property is subsequently liable, instead of the debtor, for the debtor's obligations under the contract. (SFS 1992:831).

## **Collection of attached claims**

### **Section 11**

If an attached claim is due for payment, the Enforcement Service shall without delay demand that the secondary debtor pays his debt to the Service.

If the secondary debtor does not pay voluntarily, the Enforcement Service shall enforce the claim, if there is an enforcement title.

That stated in Chapter 4, Section 23, first paragraph, may also be applied when the secondary debtor fails to pay the attached claim without any uncertainty prevailing concerning the status of the claim.

### **Section 12**

If an attached claim is not due for payment, the Enforcement Service may conclude a contract with the secondary debtor for

advanced payment of the claim and concerning a reduction of the amount of the claim that may thereby result.

### **Section 13**

If an attached claim cannot be collected within a reasonable time, it may be sold.

## **Measures after attachment of mortgage certificate, etc.**

### **Section 14**

When a mortgage certificate in a ship or land unit has been attached, the mortgaged property shall be taken in claim, if the applicant so requests, within one month of the attachment.

If an order has been made in accordance with Chapter 4, Section 23, second paragraph, a decision that the property is taken in claim may not be issued before the dispute has been finally determined, unless the court considers that there is no impediment to do so.

When the Enforcement Service has issued a decision that the mortgaged property may be taken in claim, it is deemed to be attached.

### **Section 15**

If the applicant does not within the period stated in Section 14, first paragraph, request that the mortgaged property should be taken in claim, the mortgage certificate shall be endorsed as transferred to him.

The mortgaging is implemented by the Enforcement Service issuing a certificate to the applicant that the mortgage certificate comprises a mortgage for his claim and handing over the mortgage certificate or, if someone other than the owner of the mortgaged property holds it, advising the holder of the transfer of the mortgage. It shall be stated in the notification that the

holder may not release the document to the detriment of the applicant. Shares in mortgage certificates that belong to a part-owner in mortgaged property may not be mortgaged separately.

The provisions of Section 14, second paragraph, also apply as regards mortgaging of the mortgage certificate.

### **Section 16**

The provisions of Sections 14 and 15 also apply when a promissory note that is registered in an aircraft or spare parts for aircraft has been attached at the owner of the mortgaged property.

Mortgaging of the mortgage registration document does not comprise a personal payment obligation which according to the document rests with the attachment creditor.



# Chapter 10 Sale of registered ship

## **Introductory provisions**

### **Section 1**

An attached ship that is listed in the Vessel Register (Ship Section) shall be sold at public auction. (SFS 2001:377).

### **Section 2**

The provisions of this Chapter do not apply to sale of shares in or conditional rights in a ship.

## **Time limit for sale**

### **Section 3**

An attached ship should be sold within four months from the attachment or, in a case as referred to in Chapter 4, Section 27 or Chapter 8, Section 1, third paragraph, from when a request for sale was received by the Enforcement Service, provided there is no impediment or respite is granted in accordance with Chapter 8, Section 3.

## **Rights of severance and joinder**

### **Section 4**

A creditor or other whose rights may be dependent upon the sale of the ship may buy out the applicant. He thereby enters into the position of the applicant.

A person who wishes to buy out the applicant shall, before the ship has been sold, pay to the Enforcement Service the enforcement claim and administration expenses that have arisen.

### **Section 5**

A creditor, whose claim is linked to a maritime mortgage in the ship, may request that the ship is sold for his claim, provided his right to payment is indisputable or is proved. If the ship belongs to a bankruptcy estate, creditors whose claims are linked to mortgage rights as a result of registration, retention rights or priority rights in accordance with Section 10 of the Rights of Priority Act (1970:979), also have such powers.

If charges or other costs for the administration of the ship during the bankruptcy are payable out of the ship, the administrator can request that it is sold for this claim.

If a creditor, whose claim is combined with a maritime mortgage in the ship, has requested that it is sold for his claim, the proceedings may not be discontinued because the issue of sale for another creditor's or the bankruptcy estate's account lapses.

As regards the right to buy out creditors or bankruptcy estates that have joined themselves in accordance with the first or second paragraph, the provisions of Section 4 apply.

## Measures prior to auction

### Section 6

Public notice of an auction shall be given in good time and in an appropriate manner. The public notice shall contain information about the meeting for distribution of the purchase price. Holders of claims that should be taken into account at the auction should be directed in the public notice to give notice of their rights to the Enforcement Service not later than at the auction.

### Section 7

At least thirty days prior to the auction, notification of the sale shall be sent to the applicant and owners and also to known creditors that have maritime mortgages, mortgage rights as a result of registration or retention rights. If such a creditor becomes known later, the notification shall be immediately sent to him. If the registration authority has information concerning an address, this shall be used. Notification to a place abroad shall, if possible, be sent by airmail (SFS 1994:480).

### Section 8

If the auction has not been announced as stated in Sections 6 and 7, it shall be cancelled and a new time announced, if the omission is important and cannot be remedied in some other way.

## Auction procedure and schedule of interested parties

### Section 9

At the commencement of the auction, the Enforcement Service shall provide a brief description of the content of the documents and of the measures taken. The holders of claims that should be taken into account at the auction shall be directed to give notice

of the claim. If such a claim has been notified to the Enforcement Service prior to the auction, this shall be announced.

Interested parties attending shall be afforded an opportunity to express their views on the claims submitted and the terms that apply for the sale.

When these proceedings have been concluded, a schedule of interested parties is drawn up.

### **Section 10**

There shall be included in the schedule of interested parties, besides enforcement claims, claims that are linked with maritime mortgages, mortgage rights as a result of registration or retention rights, and also administration expenses.

If the ship belongs to a bankruptcy estate, the charges and other expenses for the administration of the ship during the bankruptcy are also included. If the ship is thereby attached, claims that shall be paid with priority rights in accordance with Section 10 of the Rights of Priority Act (1970:979) shall be included.

A claim that is linked to a mortgage right on the grounds of registration also means a claim for which a ship has been taken in claim in accordance with Chapter 9, Section 14, together with a right for payment on the grounds of an excess security (SFS 1994:480).

### **Section 11**

Claims are listed in accordance with the priority prescribed by statute. Interest and other ancillary obligations are listed before the principal sum of the claim, unless the creditor otherwise requests.

The administration expenses are included immediately prior to the enforcement claim.

The claim is also included even if it is dependent upon conditions that are disputed. If a mortgage right for a claim is dependent upon the grant of registration that has been requested, the claim is included with the priority that is due to it if registration is granted.

When a sale has been requested by the bankruptcy administrator, the bankruptcy estate is deemed to be an applicant without a priority right, unless otherwise prescribed by Section 5.

### **Section 12**

A claim is included in the amount at which it is estimated to amount to on the date when the distribution meeting shall take place. As regards claims with maritime mortgages, that prescribed by Chapter 3, Section 41, second paragraph, second sentence of the Maritime Code (1994:1009) shall be observed. Mortgage rights as a result of registration may not be exercised for more than the amount of the mortgage certificate, together with supplements in accordance with Chapter 3, Section 4 of the Maritime Code. If the claim is less than the amount of the mortgage certificate, the remainder is included as excess security.

If a mortgage certificate applies in the ship that is not held by the owner and any claim for which the mortgage certificate comprises security has not been notified, the amount of the mortgage certificate is included together with one to ten percent of this amount as estimated supplement.

Excess security is included without supplement in accordance with Chapter 3, Section 4 of the Maritime Code. (SFS 1994:1010).

### **Section 13**

The schedule of interested parties shall also include the following:

1. the total amount of claims with superior rights than the enforcement claim and the administration expenses (the protected amount) together with other claims that are protected,
2. the lowest bid that must be made for the ship to be sold in accordance with Section 14,
3. terms of payment.

## **Terms of sale**

### **Section 14**

Upon the sale, the protected amount shall be covered by the purchase price of the ship and other funds that are available.

### **Section 15**

The purchase price shall be paid cash. However, subject to the consent of creditors, whose claims in accordance with the schedule of interested parties are linked to a mortgage right on the grounds of registration, that falling within the purchase price and amount of the mortgage certificate may remain outstanding on deduction from the purchase price, unless the matter involves such claim as is referred to in Section 11, third paragraph.

It shall be noted in the schedule of interested parties if a claim may not remain outstanding.

### **Section 16**

A person who successfully bids for a ship is liable to pay a deposit after the bid that corresponds to one-sixth of the purchase price, though not less than the administration cost that shall be paid out of the ship.

The deposit shall be paid cash, unless the bidder provides collateral for the amount. A claim that is combined with mortgage rights on the ground of registration against the ship

may also be accepted as collateral, provided it covers the purchase price and may be deemed to be sufficient.

The State, municipality, county council and municipal associations do not need to pay a deposit, but become in cases referred to in Section 22 liable to make payment up to a corresponding amount.

An unpaid part of the cash purchase price shall be paid not later than at the meeting that has been publicly announced for the distribution of the purchase price in accordance with Section 6. When the purchase price has been fully paid, the purchaser may take possession of the ship.

The purchaser is personally liable for payment of that which in accordance with agreement has been deducted from the price, in respect of which the prior owner is released from liability.

### **Section 17**

At the request of the interested parties whose rights depend thereon the sale may, as regards other than the payment of the deposit and the outstanding cash purchase price, together with the purchaser's right to come into possession of the ship, take place on other terms than as stated in this Chapter. The protected amount may be increased even if creditors who have not themselves requested sale oppose this.

## **The auction**

### **Section 18**

Before the ship is opened for bids, a description shall be provided of the content of the schedule of interested parties. Information shall be provided about the ship being offered for bids with the reservation that bids shall be considered in accordance with Section 19.

**Section 19**

Before a bid is accepted, the Enforcement Service shall consider whether the terms of sale as stated in Section 14 are satisfied. Even if this is the case, the bid may not be accepted if it is probable that a substantially greater purchase price can be achieved.

Notwithstanding the first paragraph, a bid shall be accepted if all the interested parties affected consent to this. The applicant may consent to a bid being accepted although the administration costs have not been covered.

If the applicant opposes, a bid may not be accepted if the enforcement claim is not covered.

**Section 20**

After a bid has been accepted, the bidder shall immediately pay the stipulated deposit. However, the Enforcement Service may upon request make a short adjournment in the proceedings in order to afford the bidder an opportunity to produce the deposit, provided the adjournment may be assumed not to involve substantial inconvenience. If the deposit is not paid, the ship shall be offered for bids again.

If the successful bidder does not fulfil his payment obligation in accordance with Section 16, fourth paragraph, the bid is invalid.

**Section 21**

If an acceptable bid that is completed by payment of the deposit does not occur, a new attempt at sale shall be made, if the applicant so requests within one week of the auction. If the successful bid has become invalid in accordance with Section 20, second paragraph, a new attempt at sale shall be made, unless the applicant declines to do so.

If two auctions have been held without the ship having been sold and there is no reason to assume that the ship can be sold

within a reasonable period, the Enforcement Service may dismiss a request for a new attempt at sale.

If a new auction shall be held, that stated in Sections 6 – 20 shall apply. Notification of claims that have been made for an auction also apply for a later auction.

If a new attempt at sale shall not be made, the attachment shall be revoked. However, this does not apply to funds that have been received or are being received as a result of measures already taken.

### **Section 22**

When a new auction has been held after a bid has become invalid in accordance with Section 20, second paragraph, the deposit shall be taken in claim to the extent that it is necessary to ensure that the same amount in total shall be achieved as upon the prior auction, together with interest thereon, computed in accordance with Section 5 of the Interest Act (1975:635), from the day fixed for the distribution of the purchase price until the new day for such distribution and also to ensure that the administration expenses as a result of the new auction shall be covered. This also applies if changed circumstances have occurred. That which need not be taken in claim shall be returned when the new bidder has satisfied his obligation to pay. If the ship is not sold at the new auction, the entire deposit is forfeited.

If a new auction is not held, the deposit shall be used for payment of the administration expenses that have been wasted. That which need not be taken in claim shall be returned.

### **Section 23**

The purchaser shall fulfil his obligation to pay in accordance with Section 16, fourth paragraph, even if the auction is appealed against.

Notwithstanding an appeal against the auction, the purchaser may take possession of the ship, unless otherwise ordered in

accordance with Chapter 18, Sections 12 or 19, before he has become entitled thereto. If he may as a result of such order not take possession of the ship and if the impediment is not revoked within three months of the date fixed for the distribution of the purchase price, he may withdraw from the purchase and obtain the return of what he has paid together with interest accrued, provided he gives notice thereof to the Enforcement Service while the impediment still exists.

### **Special provisions concerning public cases**

#### **Section 24**

The provisions contained in Section 3 do not apply to public cases.

# Chapter 11 Sale of registered aircraft, etc.

## **Section 1**

As regards the compulsory sale of a registered aircraft and spare parts for aircraft subject to registered pledges, Chapter 10 applies unless otherwise prescribed below.

As regards certain foreign aircraft or spare parts for such aircraft subject to registered pledges, the Act (1955:229) pursuant to Sweden's accession to the 1948 Convention concerning International Recognition of Rights to Aircraft shall be applied.

The provisions of this chapter do not apply to sales of shares in or conditional rights to aircraft or spare parts.

## **Section 2**

That stated concerning maritime mortgages in Chapter 10, Sections, 5, 7 and 10, shall instead apply to aviation mortgages.

The public notice of an auction in accordance with Chapter 10, Section 6, shall be given at least six weeks in advance. Notifications in accordance with Chapter 10, Section 7, shall be sent by registered letter at least one month prior to the auction. If the registration book contains information about addresses, it shall be used.

That stated in Chapter 10, Section 8, also applies when provisions in the second paragraph have been neglected.

**Section 3**

That stated concerning mortgage certificates and supplements in Chapter 10, Sections 12 and 15, shall instead apply to registered promissory notes and interest as referred to in Section 19a of the Registration of Rights to Aircraft Act (1955:227). In cases referred to in Chapter 10, Section 12, second paragraph, an amount corresponding to one year's interest in accordance with the registered promissory note shall be included instead of a ten percent supplement.

If spare parts are to be sold at the request of a creditor who does not have a registration for his claim, the protected amount in accordance with Chapter 10, Section 13 (1), may not in any case be fixed at a greater amount than two-thirds of the value that has been given to the spare parts in the case by an expert appointed by the Enforcement Service.

In cases referred to in the second paragraph, in connection with distribution of funds received, a person who has a registration in spare parts may, not to the detriment of a creditor who does not have a registration, make his claim at a higher amount than that corresponding to two-thirds of the purchase price reduced by the administration expenses. In that connection, in cases mentioned in Chapter 10, Section 22, a deposit for the spare part shall be added to the purchase price, to the extent it shall not be attributed to the bidder.

**Section 4**

In the event of a sale of several aircraft, every aircraft shall be offered for bids separately. However, aircraft that are in the hands of the same owner and are liable for the same claim shall be opened for bids together, provided the owner or creditor does not request separate sale of one or more particular aircraft. A separate schedule of interested parties shall be prepared for the property that is offered for bids separately. As regards claims for which several aircraft are liable, the schedule shall be attributed a lower amount than as stated in the schedule as may be attributed

to the property as a consequence of the purchase price for other property yielding an asset for payment of the claim or a part thereof.

The provisions of the first paragraph also apply as regards matters of sale of aircraft and spare parts subject to registered pledges. However, aircraft and spare parts may not be offered for bids together if the claim has been proved by creditors who do not have registration of the spare parts.

Spare parts that are not offered for bids together with aircraft may at the request of the owner or creditor be offered for bids in separate lots, with a reservation that the sale of such lot only takes place if the sale having regard also to the bids that are made for other lots can be accepted in accordance with Chapter 10, Section 19.

### **Section 5**

If a registration relates to several aircraft or aircraft and spare parts, the claim may only remain in accordance with Chapter 10, Section 15, if all of the mortgaged property has been attached and sold in connection with a joint offer for bids.

Instead of Chapter 10, Section 16, sixth paragraph, Section 33 of the Registration of Rights to Aircraft Act (1955:227) applies.



# Chapter 12 Sale of real property

## **Introductory provisions**

### **Section 1**

Attached real property is sold by public auction, unless otherwise prescribed by Sections 15 or 57.

### **Section 2**

That stated in this chapter concerning claims that are linked with mortgage rights also applies to claims for which real property has been taken in claim in accordance with Chapter 9, Section 14 and also, unless otherwise prescribed by special provisions in this Chapter, a right to payment on the basis of excess security.

## **Preparatory measures**

### **Section 3**

An attached land unit shall be described and valued as soon as it is appropriate having regard to the future proceedings. Fixtures and fittings shall be stated in the description and valued separately to the extent this is necessary having regard to their value or for other reasons.

If a land unit that is registered jointly with another land unit shall be sold and there is no separate tax assessment value for any of the land units, each of them shall be valued.

If necessary, an expert shall be engaged for the description and valuation.

#### **Section 4**

The owner of the land unit shall, if directed, provide the documents that prove his ownership rights or serve as information about rights that encumber the land unit or about fixtures and fittings to the land unit and state who has a claim or rights that should be taken into account in connection with the sale of the property.

The Enforcement Service shall also by other means endeavour to acquire an investigation in these respects and also about the burden that the right comprises and the consideration that is payable.

#### **Section 5**

A mortgage certificate that applies to a land unit and which is not borrowed upon may be taken into care by the Enforcement Service. After such a mortgage certificate has been taken into care, it may not be mortgaged without the permission of the Service.

As regards computerised mortgage certificates, the Enforcement Service may instead request that the National Land Survey decide that the registration may not be removed from the mortgage certificate register and that any new mortgage certificate holder may not be registered. When such a decision has been made, the mortgage certificate may not be used for mortgaging without the permission of the Enforcement Service. (SFS 1995:1398).

## **Administration of attached land unit**

### **Section 6**

An owner of an attached land unit may not reduce its value by transferring fixtures and fittings or by, for anything other than domestic use, felling forest, conducting mining or quarrying or in any other way exploiting natural resources or altering the land unit. Unless otherwise prescribed by Sections 8 and 9, he may otherwise make use of the ordinary yield until such time as the land unit has been sold and the purchaser gains access to the land unit. However, such right does not exist as regards growing crops or other yield that has been declared to be included in the sale.

The owner may not grant rights beyond that allowed in accordance with the first paragraph. The Enforcement Service may forbid him from granting rights that may make sale of the land unit more difficult.

At the request of the owner, the Enforcement Service may permit exceptions to the first or second paragraphs to the extent that this can be done without infringing the rights of the attachment applicant and is otherwise suitable.

### **Section 7**

At the request of a creditor, the Enforcement Service may, if necessary, take fixtures and fittings belonging to the land unit into care.

### **Section 8**

Leasehold charges, rent or other yield that falls due for payment during the course of the proceedings shall, at the request of the creditor and if there is reason to do so, be received by the Enforcement Service or the agent that the Service appoints. The Enforcement Service shall in such a case, without delay, give

notice to the person liable to pay prohibiting payment to anyone other than the Service or the agent.

#### **Section 9**

If it may be anticipated that the owner will neglect the land unit or deal with it in contravention of Section 6 or that the property in some other way deteriorates to a great extent, the Enforcement Service shall at the request of the creditor order the agent to take care of and administer the land unit.

#### **Section 10**

Leasehold charges, rent and other yield that the agent receives shall be reported to the Enforcement Service at the times determined by the Service.

### **Time limits for sale**

#### **Section 11**

An attached land unit should be sold within four months of the attachment or, in cases referred to in Chapter 4, Section 27 or Chapter 8, Section 1, third paragraph, from when a request for a sale was received by the Enforcement Service, unless there is an impediment or respite is granted in accordance with Chapter 8, Section 3. Respite may not be granted without extraordinary reason beyond one year from the said date.

## Buying out and rights of joinder

### Section 12

A creditor or other whose rights may depend upon the sale of the land unit may buy out the applicant. He thereby takes over the position of the applicant.

A person who desires to buy out the applicant shall, before the land unit has been sold, pay to the Enforcement Service the enforcement claim and administration expenses that arise.

### Section 13

A creditor, whose claim is linked to a priority right in the land unit in accordance with Section 6 (1) or Section 7 (1) or (2) of the Rights of Priority Act (1970:979), may request that the land unit is sold for his claim, provided his right to payment is indisputable or proven. If the land unit belongs to a bankruptcy estate, creditors whose claims are combined with mortgage rights in the land unit also have such power.

The administrator in a bankruptcy may request that the land unit is sold for the right to payment that arises due to an excess security in the land unit. The administrator may also request that the land unit is sold for his claim in relation to charges and such expenses for the care of the land unit during the bankruptcy that should be paid out of the land unit, provided the bankruptcy debtor is a legal person.

If a creditor joins in accordance with the first paragraph, he shall give notice of this to the Enforcement Service not later than two weeks prior to the proof of debt meeting.

If a creditor, whose claim is combined with a priority of right in the land unit in accordance with Section 6 (1) or Section 7 (1) or (2) of the Rights of Priority Act, has requested that the land unit is sold for his debt, the proceedings may not be discontinued because the issue of the sale on behalf of another creditor or bankruptcy estate lapses.

As regards the right to buy out a person who has joined in accordance with the first or second paragraph, the provisions of Section 12 are applied. (SFS 1994:444).

## **Sale of land unit fixtures and fittings**

### **Section 14**

If it is likely that fixtures and fittings may advantageously be sold separately without being sold simultaneously with the land unit otherwise, the Enforcement Service shall schedule a meeting to consider the issue. The Enforcement Service shall summon the applicant, the land unit owner and each of the holders of mortgage rights or of other rights that may influence the sale who are known to the Service.

If at the meeting the attending interested parties are agreed that the land unit fixtures and fittings should be sold separately, the Enforcement Service shall make an order in accordance therewith, unless special reasons require otherwise. If agreement cannot be reached for a separate sale, the Enforcement Service may make an order therefor only if there are extraordinary reasons to do so.

If there is a dispute concerning fixtures and fittings, that stated in Chapter 8, Section 5, applies.

### **Section 15**

A separate sale of fixtures and fittings takes place in accordance with the provisions concerning sale of attached personal property generally.

Fixtures and fittings that are sold separately cease to be part of the land unit, even if they are not separated therefrom.

**Section 16**

The proceeds of a separate sale of fixtures and fittings belong to those who have claims with rights in the land unit with the priority between them that applies according to law. A person who has a claim with mortgage right in the land unit may abstain from payment without this reducing his rights in the land unit generally. The holder of the claim with a mortgage right as the result of a joint registration may, however, not decline a payment from funds from fixtures and fittings under other preconditions than that consent to the declination has been given by owners of other land units subject to the mortgage as well as holders of mortgage rights that apply to one or more of the land units with rights equal to or subordinate to that registered.

A declination that affects the terms for the sale of the land unit by auction shall be made not later than in connection with the proof of debt meeting and cannot thereafter be revoked.

**Section 17**

If funds that have been received by a special sale of fixtures and fittings are not sufficient to satisfy the applicant together with those who have superior rights and who have not declined payment, the proceedings shall be discontinued, unless the property has been surrendered for bankruptcy and the administrator requests that the proceedings should continue.

**Measures prior to sale by auction****Section 18**

The time and place for the auction of the land unit is decided by the Enforcement Service.

The owner of the land unit and the holder of user rights to the land unit are liable to allow the land unit to be shown at an appropriate time.

**Section 19**

For the purpose of negotiations concerning the sale, a proof of debt meeting shall be held either on the same date as the auction or an appropriate day prior to it.

**Section 20**

Public notice of the auction shall be given in good time and in an appropriate manner. The public notice shall contain information about the proof of debt meeting and meetings for the distribution of the purchase price.

Holders of claims or rights that should be taken into account at the auction shall be directed in the public notice to give notice of their rights to the Enforcement Service not later than at the proof of debt meeting.

If the Enforcement Service has made an order for separate sale of fixtures and fittings, a public notice may not be issued before the sale has entered into final legal force and the purchase price has been paid or the issue of such sale has lapsed.

**Section 21**

The applicant, the owner and also known holders of claims and rights that should be taken into account at the auction shall be given separate notice of this in good time.

If joinder in accordance with Section 13 has taken place, the notification concerning this shall be given in accordance with the first paragraph.

**Section 22**

If the auction and the meetings have not been announced in the manner stated in Sections 20 and 21, they shall be cancelled and new times scheduled, provided the inadequacy is substantial and cannot be remedied in another way.

## **Proof of debt meeting**

### **Section 23**

The Enforcement Service shall provide a brief description of the content of the documents and for measures taken at the proof of debt meeting. The holders of a claim or right that should be taken into account at the auction should be directed to give notice of it. If such a claim or right has been reported to the Enforcement Service prior to the meeting, this shall be notified.

The interested parties attending shall be afforded an opportunity to express their views concerning claims made and the terms that shall apply for the sale.

If fixtures and fittings have been sold separately, how the purchase price received for the fixtures and fittings shall be used shall be dealt with separately, to the extent that this affects the terms of the sale of the land unit.

## **Schedule of interested parties**

### **Section 24**

When the negotiations at the proof of debt meeting have been concluded, a schedule of interested parties is prepared.

### **Section 25**

Besides the enforcement claim, the schedule of interested parties shall include

1. claims that shall be paid with priority rights in accordance to Section 6 (1) or Section 7 (1) or (2) of the Rights of Priority Act (1970:979) and which fall due for payment not later than on the completion date stated in Section 36,
2. claims that are combined with mortgage rights in the land unit,
3. user rights, servitudes or rights to electric power to which the land unit is subject, if the rights are registered or are

based on a written document that is available or relates to rent of a residential apartment in a land unit, which is taxed as a rental block, provided the tenant has entered the apartment, though not such rights as should exist irrespective of the sale of the land unit,

4. administration expenses.

If the land unit belongs to a bankruptcy estate, the charges and other expenses for the administration of the land unit during the bankruptcy shall also be included. (SFS 1994:480).

### **Section 26**

Claims and rights are listed in accordance with the priority applicable according to law. Interest and other subsidiary obligations are listed before the principal amount of the debt, unless the creditor otherwise requests.

The administration expenses are included immediately before the enforcement claim.

The claim or right is included even if it is dependent upon conditions or disputed. If a mortgage right for a claim is dependent upon the grant of a registration sought or if registration of the right has been applied for but not yet granted, the claim or right is included with the priority due if the registration is granted.

When sale has been requested by the bankruptcy administrator, the bankruptcy estate is deemed to be an applicant without a priority right, unless joinder has occurred in accordance with Section 13.

### **Section 27**

A claim is included in the amount at which it is estimated to amount to on completion date, though with the limitation that may apply because a mortgage right may not be used for more than the amount of the mortgage certificate together with supplements in accordance with Chapter 6, Section 3 of the

Land Code. If the claim is less than the amount of the mortgage certificate, the remainder is included as excess security.

If the land unit is subject to a mortgage certificate that is not held by the owner and any claim for which the mortgage certificate comprises collateral has not been notified, the amount of the mortgage certificate is included together with one to ten per cent of this amount as an estimated supplement.

Excess security is included without a supplement in accordance with Chapter 6, Section 3 of the Land Code.

### **Section 28**

Rights are included without any amount being stated.

### **Section 29**

Otherwise, the schedule of interested parties specifies

1. the aggregate amount of the claims with superior right than the enforcement claim and the administration expenses (protected amount) together with the claims that are protected,
2. the extent to which the purchase price received for fixtures and fittings shall be used for payment of claims that have been included in the schedule,
3. the lowest bid that must be given for the land unit to allow, in accordance with Section 32, the land unit to be sold,
4. what rights that in accordance with Section 33, first paragraph, are protected without reservation or in accordance with Section 33, second paragraph, should be reserved in connection with the sale,
5. the terms of payment and completion date.

For claims that only apply to a portion of the land unit, when applying the first paragraph 1, so much should be included as, taking into account the size of the portion and the ranking of the claim is covered after other claims with superior rights than

the enforcement claim together with the administration expenses are fully covered.

The purchase price for fixtures and fittings may not be claimed upon for payment of claims within the protected amount to a further extent than stated in the schedule of interested parties.

### Section 30

In appropriate cases, the schedule of interested parties shall contain a reminder about

1. the effect of failure to give notice of termination of leasehold or tenancy agreements in cases referred to in Section 46, second paragraph, and also the right to an extended contract or damages that are due in accordance with law to a lessee or tenant if he has been given notice by reason of the sale of the land unit,
2. a right to remain resident as tenant that is enjoyed by the owner of a tenant-owner right,
3. a right to remain resident on a land unit that the Enforcement Service, in accordance with Section 36, third paragraph, has granted to the owner.

### Section 31

If the sale, in accordance with Section 37, shall take place upon other conditions, the schedule of interested parties is prepared in accordance therewith.

## Terms of sale by auction

### Section 32

In connection with the sale, the protected amount shall be covered by the purchase price for the land unit, the purchase price received for fixtures and fittings to the extent it shall be

used in accordance with the schedule of interested parties for payment of claims within the protected amount, retained yield and other funds received that are available.

### Section 33

A site leasehold that has been registered is, in connection with the sale, protected without a special reservation. Other user rights together with servitudes and the right to electrical power are protected without a special reservation, provided the right has a superior right than the enforcement claim.

In cases other than those referred to in the first paragraph, the user right, servitude and right to electric power shall be separately reserved, if there is no reason to assume that the right will burden the land unit with substantial loss for the holder of the claim with a superior right. In this connection, the right to payment on the basis of excess security is not considered to be a claim.

Chapter 18 contains provisions concerning limitations to the right to bring proceedings against a decision relating to reservations as stated in the second paragraph.

Rights that are neither protected without a separate reservation in accordance with the first paragraph nor have been reserved in accordance with the second paragraph may be protected by a reservation in connection with the auction in accordance with Section 39.

### Section 34

A deduction shall be made from the purchase price for the land unit for the capital amount of such claim within the protected amount as is linked with a mortgage right and which should not, according to the schedule of interested parties, be paid with the purchase price of fixtures and fittings. However, this does not apply, if

1. the claim is due for payment not later than on the completion date and the creditor has requested cash payment,
2. the claim is such as referred to in Section 26, third paragraph or
3. the claim is linked to mortgage rights only in a portion of the land unit.

Cash payment shall always be made for excess security, even if it falls within the protected amount.

To the extent that a deduction cannot be made in accordance with the first paragraph, the purchase price for the land unit shall be paid cash, unless the person whose bid is accepted demonstrates that he has otherwise agreed with the person who, according to the schedule of interested parties, is entitled to payment. If according to the schedule of interested parties it is uncertain who should receive an amount, it may be deducted.

### **Section 35**

The person who makes a successful bid for the land unit is liable to pay, after the successful bid, a deposit that corresponds to one-tenth of the purchase price, though not more than what, in accordance with Section 34, shall be paid cash or less than the administration expenses that shall be paid out of the land unit.

The deposit shall be paid cash, unless the person making the successful bid provides collateral for the sum. Claims that are linked with mortgage rights in a land unit may be accepted as collateral if they cover the purchase price and may be deemed sufficient.

The State, municipality, county council municipality and municipal associations do not need to provide a deposit but become, in the cases referred to in Section 43, liable to make payment up to a corresponding amount.

An unpaid part of the cash purchase price shall be paid not later than in connection with the meeting of which public notice

of the distribution of the purchase price has been given in accordance with Section 20.

### Section 36

The date on which the distribution meeting shall take place according to the public notice shall be regarded as the completion date. However, the Enforcement Service may allow the person who made the successful bid to take the land unit or a part thereof into care prior to the completion date.

The Enforcement Service may make an order that unpaid yield on the land unit that should have been paid in accordance with Section 8 or 9 to the Service or the agent and that has become due for payment during the period up to and including the date the purchaser has entered the land unit, should be payable to him. If such yield is otherwise paid to the purchaser, the purchaser shall report this to the Enforcement Service.

If the prior owner does not have another dwelling, the Enforcement Service may allow him to remain resident in the land unit for at most three months after the completion date.

### Section 37

At the request of the interested parties whose rights are dependent thereon, the sale may, as far as regards matter other than the payment of the deposit and the remaining cash purchase price and also the time for completion, be made on other terms than those stated in this Chapter. The protected amount may also be increased if a creditor who has not himself requested the sale opposes it.

A request referred to in the first paragraph shall be presented not later than at the proof of debt meeting.

## Auction

### Section 38

In connection with the auction, to the extent that it is necessary having regard to the value of the fixtures and fittings of the land unit or for other reasons, it shall be stated what property will accompany the land unit and to what extent property that appears to be fixtures and fittings shall not accompany the land unit. What has thus been stated is decisive for what the sale comprises in that respect. Otherwise, the sale includes that which in accordance with law comprises fixtures and fittings to the land unit. If a dispute prevails concerning fixtures and fittings, this shall be notified.

A report shall be submitted of the content of the schedule of interested parties. Information shall be provided that the land unit is offered for bids with the reservation that bids will be considered in accordance with Section 40.

### Section 39

If the schedule of interested parties includes rights that are not, in accordance with Section 33, first paragraph, protected without a separate reservation and which have not been reserved in accordance with Section 33, second paragraph, the land unit shall be first offered for bids without a reservation concerning the continuance of the rights and thereafter with such a reservation. If there is achieved, in connection with the latter offer for bids, a bid that covers the claims with superior rights than these rights or which, without covering them, is as great as or greater than the bid made with the preceding offer bid, the bid at the later offer has priority. The fact that an excess security is not covered does not comprise an impediment to a bid with a reservation for the rights being accepted.

If the schedule of interested parties includes two or more such rights as referred to in the first paragraph, the land unit shall first be offered for bids without a reservation for any of the rights

and thereafter with a reservation first only for the right that has the best rights and subsequently for increased numbers of rights in accordance with their mutual order. A bid that protects more rights than another bid has priority before that bid, provided it does not result in reduced coverage of the claims that have superior rights than any of the rights.

When a bid with a reservation for a right does not cover claims with superior rights, the holder of the right may protect the right by paying the difference between that bid and the bid without a reservation for the right or such proportion of the difference as is necessary to cover the claim with superior right.

If the holder of a right in a case referred to in the second paragraph is willing to pay in accordance with that stated in the third paragraph but the amount thus offered, as a consequence of several supplements being required, is not alone or in combination with other supplements that are offered sufficient to protect his right, the land unit shall be offered for bids with a reservation for the right and the or those rights that are protected by a previous bid and other supplements that have been offered.

If a creditor whose claim has not been covered by a particular bid accepts the bid, the claim shall, when applying the first to fourth paragraphs, be deemed to be covered.

If the holder of the rights instead of paying provides collateral, this shall be accepted.

#### **Section 40**

Before a bid is accepted, the Enforcement Service shall consider whether the terms for the sale stated in Section 32 are satisfied. Even if this is the case, the bid may not be accepted if it is probable that a substantially greater purchase price can be attained.

Notwithstanding the first paragraph, a bid shall be accepted if all the interested parties affected consent. The applicant may

allow a bid to be accepted although the administration expenses have not been covered.

A bid may not be accepted if the applicant objects, if the enforcement claim is not covered.

#### **Section 41**

After a bid has been accepted, the successful bidder shall immediately provide the deposit stipulated. However, the Enforcement Service may upon request allow a short adjournment in the proceedings to allow the successful bidder an opportunity of acquiring the deposit, provided the adjournment will not be assumed to involve substantial inconvenience. If a deposit is not paid, the land unit shall be re-offered for bids.

In cases referred to in Section 39, the deposit shall be paid for each successful bid, even if the land unit is to be re-offered for bids. If a successful bid does not prevail, the deposit is repaid.

If the successful bidder does not satisfy his obligation to pay, in accordance with Section 35, fourth paragraph, the successful bid is invalid.

#### **Section 42**

If a bid that is accepted is not completed by the deposit being paid, a new attempt at sale shall be made, provided the applicant so requests within one week from the auction. If a successful bid has become invalid in accordance with Section 41, third paragraph, a new attempt at sale shall be made, unless the applicant declines this.

If two auctions have been held without the land unit having been sold and if there is no reason to assume that the land unit may be sold within a reasonable time, the Enforcement Service may dismiss a request for a new attempt at sale.

If a new auction shall be held, that stated in Sections 18 – 41 applies. Notification of claims or rights that have been given for an auction also apply for a later auction.

If a new attempt at sale shall not be made, the attachment shall be revoked. However, this does not apply to funds that have been received or are being received by reason of measures already taken.

### **Section 43**

When a new auction has been held after a successful bid has been become invalid in accordance with Section 41, third paragraph, the deposit shall be taken in claim to the extent it is necessary to achieve the same aggregate amount as in connection with the prior auction together with interest thereon, computed in accordance with Section 5 of the Interest Act (1975:635) from the completion date up to and including the new completion date and also to ensure that the administration expenses by reason of the new auction are covered. This also applies if the land unit is sold with a reservation for a right that has not been reserved in connection with the prior auction or there has been a change of circumstances. That which need not be taken in claim shall be repaid when the new successful bidder has fulfilled his obligation to pay. If the land unit is not sold at the new auction, the entire deposit is forfeited.

If a new auction is held, the deposit shall be used for payment of the administration expenses that have been wasted. That which does not need to be taken in claim shall be repaid.

### **Section 44**

After the auction that has resulted in the sale of the land unit has entered into final legal force and the purchaser has satisfied his obligation to pay in accordance with Section 35, fourth paragraph, the Enforcement Service issues a land transfer document.

If the successful bidder shows that he has bid on behalf of another, the land transfer document shall be issued to that person.

## **Certain legal consequences of auction**

### **Section 45**

After the land unit has been sold, it is not burdened with claims referred to in Section 25, first paragraph (1).

Creditors who have a mortgage certificate cannot, following the sale of the land unit, claim mortgage rights in the land unit against the purchaser for greater claims than have been deducted from the purchase price together with promised interest thereon from the completion date together with future damages and future expenses derived from the debt relationship.

The purchaser becomes personally responsible to pay that which in accordance with the agreement has been deducted on the cash purchase price and the former owner is released from liability therefor. In cases referred to in Section 44, second paragraph, the person who also made the successful bid becomes liable to pay.

### **Section 46**

A purchaser who has fulfilled his obligation to pay in accordance with Section 35, fourth paragraph, obtains access to the land unit on the date that has been decided for the distribution of the purchase price. He is thereafter responsible for the owner's obligations to the extent that they shall be performed after the completion date.

If the purchaser desires that a leasehold or tenancy agreement listed in the schedule of interested parties, which is protected in accordance with Section 33, first paragraph, or has been reserved in accordance with Section 33, second paragraph or at the auction, shall terminate, he is obliged to give notice terminating the agreement within one month from the completion date. In other cases the agreement applies against him. As regards the point in time at which leasehold and tenancy agreements shall cease by reason of notice of termination, that prescribed as

regards notice of termination after voluntary transfer of the land unit shall apply.

There are special regulations concerning the rights of lessees or tenants in certain cases to request an extension of the agreement or to obtain compensation in the event of notice of termination.

#### **Section 47**

The following provisions apply as regards rights that shall not cease immediately on the sale of the land unit.

For leasehold charges, rent and other payments for the rights that fall due for payment more than six months or, as regards leasehold, more than one year after the completion date, the holder of the rights may not deduct the claim with the former owner. As regards such amount, nor does a payment that the holder of the rights has made to the former owner or other settlement with him apply.

The claim that a rights holder has acquired or advance payment or settlement that has taken place after when the land unit has been attached may not be referred to against the purchaser, provided the rights holder was or ought to have been aware of the attachment.

Chapter 7, Sections 19 and 20 of the Land Code contain provisions concerning the right of the rights holder to compensation from previous owners, if the right ceases by reason of the sale of the land unit.

If a purchaser fails to satisfy a previous owner's obligations in relation to the rights holder in accordance with Section 46, first paragraph, as regards an obligation for the previous owner to pay the rights holder his loss, that stated in Chapter 7, Section 20, first and third paragraphs of the Land Code shall apply.

**Section 48**

The purchaser shall fulfil his obligation to pay in accordance with Section 35, fourth paragraph, even if the auction is appealed against.

Notwithstanding any appeal against the auction, the purchaser obtains access to the land unit on the date decided, unless otherwise ordered before that in accordance with Chapter 18, Section 12 or 19. If he as a result of such order gains access to the land unit and the impediment is not revoked within three months from the completion date decided, he may withdraw from the purchase and obtain repayment of what he has paid together with accrued interest, provided he makes an application therefore to the Enforcement Service while the impediment still prevails.

**Jointly mortgaged land units****Section 49**

When one of several jointly mortgaged land units should be sold at auction, a person who has a claim with a mortgage right on the basis of the joint mortgage is entitled to draw in another of the mortgaged land units in the sale, if this is liable for the mortgage amount or a part of this before the land unit that should be sold. If this should be sold for the claim of the mortgagee or for claims that have a superior right, he may also bring in a land unit that is subject to the mortgage first after the land unit that will be sold.

Claims to draw in a land unit shall be presented to the Enforcement Service not later than at the proof of debt meeting. The owner of the land unit shall be afforded an opportunity to express his views on the application. The proof of debt meeting and auction shall be cancelled and new times scheduled, if this is necessary in order to have time to consider the application.

If the application is granted, the land unit that has been drawn in is deemed to be attached when the decision is issued. It may not be sold before the decision has entered into final legal force.

#### **Section 50**

If one of several jointly mortgaged land units shall be sold at auction, a claim with a mortgage as a result of the joint mortgage is included in the schedule of interested parties in the amount to which the land unit is subject in relation to the other land units. The amount shall be paid cash, unless otherwise agreed between the purchaser and the person who in accordance with the schedule of interested parties is entitled to payment.

#### **Section 51**

If all land units that are subject to a joint mortgage shall be sold at auction and circumstances as referred to in Section 52, second paragraph, do not exist, a joint schedule of interested parties is prepared for the land units. Rights in any of the land units shall in this connection be deemed to be granted in them all. At the auction, the land units shall be offered for bids jointly.

#### **Section 52**

If several of the jointly mortgaged land units but not all have been sold at auction, Sections 53 – 55 apply.

When all land units that are subject to a joint mortgage shall be sold, Sections 53 – 55 similarly apply, provided

1. the land units have different owners,
2. any of the land units has been brought into the sale pursuant to Section 49,
3. any of the land units is only liable in the second instance for a joint mortgage,
4. any of the land units is burdened with a special mortgage,

5. the liability of any of the land units for joint mortgage does not relate to the entire amount of the mortgage,
6. it is claimed by the holder of such rights in any of the land units that it should not continue irrespective of the land unit being sold, or
7. it is in other cases claimed by the owner or creditor whose rights are dependent thereon.

An application referred to in the second paragraph (6) or (7) shall be presented not later than at the proof of debt meeting.

### **Section 53**

A special schedule of interested parties shall be prepared for every land unit that is to be sold. The schedule is prepared as if the sale had been requested on the grounds of the best joint mortgage, unless an enforcement claim has a superior right. A claim with a mortgage right based on a joint mortgage is included for each land unit in the amount for which the land unit is subject to in relation to the other land units. If the liability will upon sale extend beyond this, this should be noted. As regards land units that are only subject in the second instance, it is stated whether such liability may come into question.

If a land unit has been drawn in for sale in accordance with Section 49, when computing a supplement in accordance with Chapter 6, Section 3 of the Land Code it shall be deemed to be so that the land unit had been attached at the same time as the land unit originally attached.

### **Section 54**

At the auction, the land units shall each be offered for bids separately. Thereafter, they shall be offered jointly, if they have the same owner. A subsequent joint offer for bids shall also otherwise be made if full payment has not been achieved for claims for which all land units are liable or if the owners of the

land units are agreed that they should be offered for sale together.

If on a joint offer for sale a greater bid is received than the sum of the bids on the separate offers for bids, the bid made in connection with the joint offer for sale shall have priority. The purchase price that has been bid in connection with the joint offer for sale shall be distributed between the land units according to the value that they have been attributed in the case. However, the share of a land unit in the joint purchase price comprises at least what has been offered for that land unit in connection with a separate offer for bids. If any of the land units have been offered for bids with fixtures and fittings that were not included in the value according to which its share in the purchase price shall be computed or offered for bids without the fixtures and fittings being subject to the said value, the value of the land unit when applying that provided shall be adjusted according to what is called for in the said circumstances. If, as regards any of the land units, its share in the purchase price and other available funds does not amount to the protected amount and if therefore the issue of the sale of the land unit should lapse, the other land units shall be offered for bids jointly.

If a bid is not achieved that is sufficient for payment of any part of the enforcement claim, none of the land units may be sold.

If a land unit has been brought into the sale pursuant to Section 49, the land unit originally attached shall be offered for bids first. If in that connection a bid is not achieved that is sufficient for payment for any part of the enforcement claim, the land unit may not be sold. If it is not sold, nor shall the land unit brought in be sold.

A land unit that is only liable in the second instance for a claim with a mortgage right as a result of a joint mortgage may not be sold for the claim before it has been shown that payment cannot be received out of the land unit that is liable in the first instance. Nor may the land unit liable in the second instance be sold if its owner or other interested party pays the deficiency for

which the land unit is subject or provides collateral for the amount. A joint offer for bids on the land unit need not take place unless there are special reasons.

#### **Section 55**

If a right has been reserved in connection with a special offer for bids, the reservation also applies in connection with subsequent joint offers for bids. If the right has not been reserved in connection with the separate offer for bids, Section 39 applies in connection with the joint offer for bids.

When applying Section 40, it shall be considered whether a substantially greater purchase price can be achieved in relation to the aggregate purchase price for all the land units that have been successfully bid for at the auction.

Deposits shall be paid for each successful bid, even if a land unit bid for shall be re-offered for bids. If the bid shall not prevail, the deposit shall be repaid.

Claims that by reason of a joint mortgage are linked to a mortgage right in the sold land unit are paid cash, unless the purchaser and the person who in accordance with the schedule of interested parties is entitled to payment otherwise agree.

### **Continued mortgage liability**

#### **Section 56**

Such orders concerning continued mortgage liability as referred in Chapter 6, Section 12 of the Land Code may be issued by the Enforcement Service upon the request of the purchaser.

If the land unit has been sold in cases referred to in Chapter 6, Section 12, second paragraph, second or third sentence of the Land Code, the order for continued mortgage liability may be issued concerning joint mortgage to which the land unit is subject only if the land unit in relation to the other jointly mortgaged land units is subject to the entire mortgage and the

claim that is linked with the mortgage right on the basis of the mortgage has been covered. If funds that have been received by a separate sale of fixtures and fittings are attributed to the amount of the mortgage certificate, an order may not be issued concerning a corresponding part of the mortgage.

A request for an order in accordance with this Section shall be presented not later than in connection with the meeting for the distribution of the purchase price or, in connection with private sale, before the Enforcement Service has issued the land transfer document. In this connection, the mortgage certificate shall be handed in, if it is not already available to the Enforcement Service or if the Enforcement Service in other case considers that there is reason to allow exception. (SFS 1994:444).

## **Private sale**

### **Section 57**

An attached land unit may be sold privately, if a sale by such means is assessed to be more suitable for the purpose than a sale by auction and it is reliably established what claims and rights the land unit is subject to. When assessing whether a private sale is more appropriate for the purpose, the preconditions for thereby obtaining a greater purchase price for the land unit than upon a sale by auction shall be taken into account particularly.

The land unit may not be sold privately if a registered right has a subordinate right than a claim that is combined with a mortgage right if the claim is not covered by the purchase price. However, a sale may take place if the holder of such claim consents to such sale. A land unit that is jointly mortgaged with another land unit may not be sold privately. (SFS 1994:444).

### **Section 58**

In connection with a private sale a schedule of interested parties shall be prepared. In that connection, Sections 25 and 26, Section

27, first and third paragraphs, Section 28, Section 29, first paragraph 1 – 3, Section 29, second and third paragraphs together with Section 31 shall apply.

As regards the sale and the terms of sale, Sections 32 and 34, Section 37, first paragraph, Section 38, first paragraph together with Section 40 shall apply.

Prior to the sale, rights granted that are based on written documents shall be reserved. A reservation shall also be made for each tenancy right granted to a residential apartment in a land unit, which is taxed as a rental block unit, provided the tenant has entered the apartment. As regards such rights, Section 47 applies.

The purchaser shall pay a deposit in accordance with that prescribed in Section 35. The remainder of the cash purchase price shall be paid not later than ten weeks after when the purchase document has been prepared. If this is neglected, the sale is invalid.

If the sale is invalid, the provisions in Section 43 concerning the deposit apply. That stated concerning auctions in Section 43, first paragraph, also applies to private sale.

The provisions of Section 45 concerning certain legal consequences and Section 56, first paragraph concerning continued mortgage liability also apply upon a private sale. (SFS 1994:444).

#### **Section 59**

Before the land unit is offered for sale privately the owner and the applicant shall be given the opportunity to express their views. The holders of such claims and rights as referred to in Section 25, first paragraph, shall be served with notification concerning the sale and at the same time directed to within a particular time give notice of their rights to the Enforcement Service.

A creditor whose claim is linked with a mortgage right in the land unit shall, if the claim has not been covered by the purchase

price offered, be given an opportunity to purchase the land unit at a price that exceeds the purchase price offered. (SFS 1994:444).

### **Section 60**

Unless otherwise prescribed by Section 58 or Section 59, second paragraph, the Enforcement Service determines the terms of sale.

The sale is implemented by a specially prepared sales document being signed by the Enforcement Service and the purchaser.

The owner shall be immediately notified of the sale.

When the purchaser has satisfied his obligation to pay in accordance with Section 58, fourth paragraph, and the sale has entered into final legal force, the Enforcement Service shall issue a land transfer document.

The provisions of Section 48 also apply as regards private sales. (SFS 1994:444).

### **Section 61**

If the property is not sold privately, it shall be offered for sale by auction, unless the applicant declines to do so.

## **A sale of a conditional right to a land unit or a share in the land unit, etc.**

### **Section 62**

The provisions of Sections 3 – 61 shall also apply in relevant respects when attachment of real property has occurred while the debtor's rights are conditional and when the attachment of real property did not relate to an entire land unit, unless otherwise prescribed by Sections 63 – 68.

**Section 63**

If, in a case where a transfer of a land unit is dependent upon conditions, the land unit has been attached for a claim at the transferor, a sale may not take place before it has been demonstrated that the condition has been satisfied.

That stated in the first paragraph also applies if part of the land unit has by a transfer come into the possession of a separate owner and the land unit has been attached for a claim with the transferor before the land unit formation which, in accordance with statute, comprises a condition for the validity of the transfer has been approved. However, if this involves considerable delay in time pending whether the land unit formation is approved, the land unit may be sold subject to a reservation for the right that belongs to the acquirer. The sale then also comprises the debtor's rights against the acquirer. The purchaser is responsible for the debtor's obligations towards the acquirer.

**Section 64**

If, in a case where an acquisition of a land unit or a part of a land unit is dependent upon conditions, the property has been attached for the claim at the acquirer, the Enforcement Service shall offer the debtor's rights to the property for sale in the manner applicable for compulsory sale of attached rights. If a sale is made, the purchaser is liable for the debtor's obligations in relation to the person from whom he acquired. An application for a mortgage registration, which has been made on the same date as attachment or later, lapses by the sale, unless the Enforcement Service at the request of the purchaser otherwise orders.

If it is possible to wait to see whether the condition applicable for the acquisition has been satisfied without there being substantial delay, a respite for the sale may be granted until such time as it is shown that this is the case. If the condition is

satisfied, a sale takes place in the manner generally applicable for compulsory sale of real property.

When a sale that has taken place in accordance with the first paragraph has entered into final legal force and the purchaser has satisfied his obligation to pay, the Enforcement Service issues a sales document.

### **Section 65**

The provisions of Sections 63 and 64 do not apply if the claim for which the attachment took place was linked with a special priority right in the land unit.

### **Section 66**

If the condition is satisfied in cases referred to in Section 63 or if the acquisition lapses in cases referred to in Section 64, second paragraph, the Enforcement Service shall collect or offer for sale that which is thereafter received by the debtor and subject to the attachment. In this connection, the arrangements prescribed by Chapters 8 and 9 shall apply as regards matters of attached claims or rights.

### **Section 67**

If only a share in the land unit has been attached but, in accordance with Chapter 8, Section 8, the whole of the land unit should be sold by auction, the schedule of interested parties shall indicate what claims and rights each particular share is subject to. The protected amount shall be decided so that claims, that apply to the share first attached only or in the said share together with another share and which has a superior right than the enforcement claim, together with the administration expenses are fully covered.

If any of the part owners are in bankruptcy, a creditor may exercise a right of joinder in accordance with Section 13 even if he only has a priority right in part of the land unit.

**Section 68**

When a share in a land unit has been sold in accordance with Chapter 8, Section 9, second paragraph, and the sale has entered into final legal force and the purchaser has also fulfilled his obligation to pay, the Enforcement Service issues a sales transfer document.

**Special provisions concerning public cases****Section 69**

The provisions of Section 11 do not apply to public cases.

# Chapter 13 Accounting for funds received

## **General provisions concerning accounting**

### **Section 1**

Funds that have been received by the Enforcement Service in cases concerning attachment shall be accounted for as soon as possible. If the amount received is small and it may be assumed that further funds will be received in the case, the Service may wait with the accounting.

In connection with attachment for maintenance allowance that is not due in accordance with Chapter 7, Section 6, second paragraph, the accounting may take place at the earliest in close conjunction with the date when the allowance falls due for payment. (SFS 1995:298).

### **Section 2**

That stated in this Chapter concerning funds received also applies to interest that is payable on the funds up to and including the distribution date as stated in Section 6. Interest on amounts that remain thereafter are attributable to the person who is entitled to the amount.

### **Section 3**

When the purchaser has provided collateral for a deposit and the purchase price is not paid within the prescribed time, the

Enforcement Service shall take the collateral in claim, provided it is necessary for payment of that for which the purchaser is liable. The corresponding applies when another interested party has, in accordance with Chapter 12, Section 39 or 54, provided collateral for an amount that shall be accounted for.

## **Distribution**

### **Section 4**

For distribution of funds received, the Enforcement Service shall hold a distribution meeting, when this is prescribed in the Code or when it is in other cases unclear how the funds should be distributed.

Public notice shall be given separately of a meeting that has not been scheduled in conjunction with a public notice of an auction, if this is necessary having regard to unknown interested parties or for other reasons. Public notice shall be given in good time and in an appropriate manner. The applicant, the debtor and other known interested parties shall be given notice to attend the meeting.

### **Section 5**

At the distribution meeting, the Enforcement Service shall report on what is to be distributed and on the claims that have been notified or which must be taken into account without being notified.

### **Section 6**

A claim that should be taken into account is included as the sum to which it amounts on the distribution date. In this connection, the distribution date means the date on which the distribution meeting is scheduled, even if an impediment arises to implement the distribution then. When a meeting has not been held, the

date on which the Enforcement Service's decision was issued is deemed to be the distribution date.

Upon distribution, such administration expenses as only refer to the case are also regarded as a claim in a case.

If the creditor requests payment for a claim that has not been notified in time, the distribution shall be made from the surplus, if there is any. (SFS 1993:1650).

### Section 7

If a claim or right of priority connected thereto is dependent upon conditions or disputed or if a priority right is dependent upon the grant of a registration applied for, the Enforcement Service shall reserve what is due for the claim pending satisfaction or lapse of the condition or that the dispute or issue concerning registration has been finally determined. However, reservation shall not take place in cases where dispute shall be considered under the third paragraph.

A creditor whose claim or priority rights is disputed shall, unless it is for special reasons unnecessary, be ordered to within one month from when the order is served upon him institute proceedings concerning the rights to the funds against the interested parties who will receive the funds if the creditor's claim lapses. If the creditor does not comply with the order, he loses his rights to the funds, unless the other party within the stated period has instituted proceedings against the creditor.

If a distribution cannot be concluded without substantial inconvenience for the parties without the dispute having been determined, the Enforcement Service shall itself consider the dispute, provided this is appropriate for the purpose. In this connection that stated in Chapter 2, Sections 22 and 23 applies. (SFS 1994:480).

**Section 8**

When funds have been reserved in accordance with Section 7, the Enforcement Service shall state how it will be proceeded with them if the claim lapses completely or partially.

**Section 9**

If all the interested parties affected are agreed on how the funds should be distributed, the distribution shall take place in accordance therewith.

**Special provisions concerning registered ships, registered aircraft, etc., and real property****Section 10**

When a registered ship, registered aircraft, spare parts for an aircraft subject to registered pledges or land unit have been sold at auction, the yield received from the property, payments that have been received as a result of a failed attempt to sell the property and supplements that anyone has paid in order to preserve their rights in connection with the sale are distributed together with the purchase price for the property. Funds that have been received by a separate sale of fixtures and fittings of a land unit shall be distributed at the same time as the purchase price for the land unit.

The distribution shall take place in accordance with the schedule of interested parties, unless it is indicated that the claims are less than that stated in the schedule. Chapter 11, Section 3, third paragraph contains rules relating to limitation on the rights of the holder of the pledge in connection with the sale of spare parts for aircraft subject to registered pledges.

Distribution for claims that have not been included in the schedule is only made from a surplus, if there is one.

**Section 11**

The provisions of Section 10, first paragraph, also apply when the land unit has been sold privately. Funds shall be distributed in the first instance in accordance with the terms of sale and otherwise in accordance with the basis applicable for the preparation of the schedule of interested parties.

**Section 12**

If the proceedings are discontinued as regards property that is referred to in Section 10 without the property having first been sold, funds received shall be distributed in accordance with that stated there, providing the schedule of interested parties has been prepared, and in other case, in accordance with the basis applicable for the preparation of such a schedule. However, other creditors than the applicant are not entitled to obtain payment from the funds except for interest and expenses, if his claim is linked with a mortgage right as a result of registration.

When fixtures and fittings of a land unit have been sold separately, a creditor who has not declined payment shall obtain a distribution, applying Chapter 12, Section 16, even if the land unit is not sold.

**Deduction****Section 13**

Funds which are due to a creditor shall be deducted from interest and other subsidiary obligations before the principle amount of the claim, unless the creditor otherwise requests prior to the distribution or, if a distribution does not take place, prior to the payment.

Chapter 10, Section 11, first paragraph, Chapter 11, Section 1 and Chapter 12, Section 26, first paragraph, contain provisions concerning the order between the principle amount of the claim and subsidiary obligations when a registered ship, registered

aircraft, spare parts for aircraft subject to registered pledges or land unit have been attached.

## Payment

### Section 14

Funds may not be paid out before collateral has been provided, if

1. attachment has taken place pursuant to Chapter 3, Section 5, (1) or (6), and the enforcement title has not entered into final legal force or attachment has taken place as a result of a verdict or decision in a case concerning a payment order or enforcement assistance and the debtor has applied for re-opening or appeal,
2. attachment has taken place with the estate of a deceased person for a claim that is not linked to a special priority right in the property and the period stated in Chapter 8, Section 6, first paragraph, has not expired,
3. the right to funds is dependent upon an appeal of the attachment or the sale of the attached property or an action referred to in Chapter 4, Sections 20 – 22 or 26,
4. distribution that has taken place at a distribution meeting has not entered into final legal force,
5. a dispute prevails in other cases concerning who is entitled to payment. (SFS 1994:1038).

### Section 14a

Section 14 (3) or (5) does not apply in connection with the attachment of pay for maintenance allowance with priority rights in accordance with Chapter 7, Section 14. However, if there are special reasons, Section 14 (5) shall be applied. (SFS 1995:298).

**Section 15**

If funds have been reserved in accordance with Section 7, first paragraph, as a result of a dispute and if the dispute has been considered by a court, the winning party may, subject to providing collateral, receive funds even if the determination has not entered into final legal force. In other cases, funds that have been reserved in accordance with Section 7, first paragraph, if there is reason, may be paid out subject to the provision of collateral to the creditor for whom they have been reserved or, if that party does not wish to take out the funds, to a person who in the second instance is entitled to them.

**Section 16**

An appeal against a distribution that has been implemented does not prevent amounts that have not been affected by the appeal being paid out. (SFS 1994:1038).

**Section 17**

When funds have been paid out, that generally applicable concerning the obligation of a creditor to present or return evidence of a claim or collateral that has been provided for the claim shall be observed.

A mortgage certificate in a ship or land unit or corporate charge certificate, which comprises collateral for a claim for which payment has fallen due, shall be presented even if the creditor is not liable to return the document, unless the Enforcement Service considers there is reason to allow an exception. The same also applies to a promissory note that is registered in other property, when the obligation to present or return the promissory note is not already required according to the first paragraph.

When the purchaser claims that the person who according to the schedule of interested parties is entitled to payment has allowed him a deduction on the purchase price, that prescribed

by the first and second paragraphs applies in connection with the consideration of the agreement by the Enforcement Service. (SFS 1984:653).

#### **Section 18**

If a creditor for which a distribution has been computed does not within one year from when the distribution has entered into final legal force present evidence of a claim or otherwise satisfy that required in accordance with Section 17 in order that he should be able to take out the funds, these may upon the provision of collateral be paid out to the person who in the second instance is entitled to them, unless there are special reasons.

#### **Section 19**

If all interested parties affected consent to an amount being paid out without collateral when this is otherwise required, this shall be done.

#### **Section 20**

If a decision for distribution or payment is altered, the Enforcement Service shall upon request enforce the payment of that due. In this connection, collateral provided may be claimed upon. The corresponding applies if funds that someone has been allowed to take out in accordance with Section 14 or 15 should be attributed to another interested party or if a creditor has been allowed to take out funds in accordance with Section 18 and a person who has a superior right to the funds gives notice and fulfils that required for payment to him.

**Section 20a**

If funds received shall be distributed between several cases and if the amount to be paid is less than 100 kronor in any of these, the amount, unless special reasons otherwise give cause, shall instead be distributed between other cases where the claim has not been fully covered.

The Enforcement Service is not liable to pay out an amount that is less than 25 kronor. If the amount is not paid out, it passes to the State. (SFS 1993:1650).

**Special provisions concerning public cases****Section 21**

The provisions of Sections 1, 13, 14 and 20 do not apply to matters concerning the applicant in public cases. Nor do Sections 4 – 6, Section 7, first – third paragraphs, Sections 8 and 9 apply in such cases, except if the distribution shall take place with a private creditor or if it is specially prescribed that a distribution meeting shall be held. The provisions in Section 7, third paragraph may not be applied in public cases if the applicant's claim is affected by the dispute.



# Chapter 14 Effect of compulsory sale, etc.

## **Section 1**

Compulsory sale gives the purchaser the same rights to the sold property as a voluntary sale, unless otherwise prescribed by that stated in this Chapter.

## **Section 2**

When attachment of particular property affords priority before a transfer of the property, this applies with priority for the person who acquired the property in connection with compulsory sale. The same also applies when a third party after being ordered to do so in accordance with Chapter 4, Section 20 or Section 26 together with Section 20 has lost his rights against the applicant.

## **Section 3**

If a compulsory sale of a registered ship has entered into final legal force and the purchase price has been paid, the purchaser's acquisition, if the debtor was not the rightful owner, shall apply, to the extent that the debtor's access was registered when the sale took place.

When compulsory sale of real property has entered into final legal force and the purchase price has been paid, a person who refers to another acquisition of the property from the debtor or any of his representatives loses his rights against the purchaser. Even a person who alleges that the debtor's or any of his representative's access was invalid or for some other reason not

valid against the rightful owner loses his rights against the purchaser, provided the land registration has been granted for the debtor when the compulsory sale took place.

#### **Section 4**

If property sold compulsorily is taken from the purchaser because the debtor was not the rightful owner, the debtor is liable to compensate the purchaser for his loss with an aggregate amount of what has gone for payment of the claim to the debtor and has been paid out to him. If the debtor has intentionally or by negligence caused loss to the purchaser, he is liable to compensate the loss without such limitation.

A creditor, who received the payment in good faith, is liable to jointly with the debtor compensate the purchaser for his loss in the amount that he had received as payment. If the creditor intentionally or by negligence has caused loss to the purchaser, he is liable to compensate the loss without such limitation.

#### **Section 5**

When a compulsory sale involves a third party losing his ownership rights to the property sold, as regards the third party's right to compensation for the loss suffered, that stated in Section 4 applies concerning the purchaser's right to compensation from the debtor and creditor. The corresponding applies when collection of an attached claim means that a third party loses his rights to the claim.

#### **Section 6**

When a third party in accordance with Section 3, first paragraph, loses his rights to a registered ship within the Realm, he is entitled to compensation from the State in accordance with the same provisions applicable when such compensation shall be paid by reason of the owner's rights being lost by a voluntary

sale. The corresponding applies when a third party in accordance with Section 3, second paragraph, second sentence loses his rights to real property.

If the State has paid compensation in accordance with the first paragraph, the State takes over the third party's rights in accordance with Section 5.



# Chapter 15

repealed by (SFS 1995:298).



# Chapter 16 Other enforcement

## **Eviction**

### **Section 1**

Questions concerning enforcement and obligation for former owners or holders of user rights to move from real property, a residential apartment or any other space in a building (eviction) is considered by the Enforcement Service in the region where the defendant is resident or the enforcement shall take place. (SFS 1996:1438).

### **Section 2**

Before eviction takes place, the defendant shall be afforded an opportunity to express his views. However, if the residence of the defendant is not known and if it has not been possible to establish where he is staying, eviction may take place notwithstanding that he has not been afforded an opportunity to express his views.

The Service of Documents Act (1970:428) applies to matters concerning service of documents whereby the defendant is afforded an opportunity to express his views. If the residence within the Realm of the person sought is known but neither he nor someone with whom the document can be left can be found in accordance with Section 12 of the Service of Documents Act and if it cannot be established where he is staying, service by public notice may be used. The Enforcement Service may in such

case decide instead that the document should be left in a sealed envelope at the residence of the person sought or, if this cannot be done, attached to the door of his dwelling. If the defendant is living abroad, the document may be sent to him by post to his foreign address.

### **Section 3**

Eviction shall be implemented so that reasonable regard is taken to both the applicant's interest and the defendant's situation.

If possible, eviction shall take place within four weeks from when necessary documents have been received by the Enforcement Service.

Eviction may only take place one week from when the defendant is afforded an opportunity to express his views or, if the defendant is living abroad, two weeks from when notification was sent to him.

### **Section 4**

If it is necessary having regard to the defendant, the Enforcement Service may allow a respite with eviction for at most two weeks from the expiry of the time stated in Section 3, second paragraph. If there are extraordinary reasons, this respite may be extended to at most four weeks, provided reasonable compensation is paid for the entire period of the respite that has been allowed by the Service.

If there is an impediment to implementation of the eviction on the basis of Section 3, third paragraph, within the time specified in Section 3, second paragraph, the period of respite shall be computed from the day the administration could have taken place at the earliest.

**Section 5**

If the applicant allows a postponement with eviction and if the postponement lasts for over six months from the date of the application, the application lapses, provided there are no special reasons for approving further postponement. (SFS 1995:298).

**Section 6**

The Enforcement Service shall if necessary attend to the transport of the property that shall be removed, rent spaces for storage of the property and implement other similar measures that are caused by the eviction.

Before measures are taken in accordance with the first paragraph, the parties shall be notified, if this may be of importance for them.

The person who received the property for storage in a case referred to in the first paragraph is entitled to reasonable payment by the defendant for the storage. If the property is not collected within three months after the eviction, the person who has received the property may sell it and take out his claim from the purchase price or, if the property obviously lacks sales value, dispose of it. Before the property is sold or disposed of, the defendant shall, if he can be reached, be directed to collect the property. The obligation to give direction is deemed satisfied by the direction being sent by registered letter to the defendant's known address. Otherwise, Sections 5 – 7 together with Section 10, first and second paragraphs of the Business Operator's Right to Sell Uncollected Property Act (1985:982) applies. When applying these provisions, that stated concerning the customer shall be deemed to mean the defendant and that stated concerning the business operator shall be deemed to mean the person who has received the property for storage. (SFS 1985:983).

**Section 7**

If eviction shall take place from a dwelling and if the defendant fails to take care of the property and if a suitable storage space cannot be acquired, the Enforcement Service may order that the property should be sold. If the property may be assumed to lack a sales value, it may instead be ordered that it should be destroyed. Property that belongs to a third party may be sold or destroyed only if he fails himself to take care of the property.

If an order in accordance with the first paragraph is issued, the defendant and, if the property belongs to a third party, that party, shall be afforded an opportunity to express their views. In this connection, Section 2 applies.

A sale takes place by the procedure applicable for attached personal property generally. However, the provisions of Chapter 9, Section 4, first paragraph, do not apply.

**Section 8**

Eviction may be implemented even against occupants or other third parties who impede the applicant in the exercise of his rights, providing it is obvious that a third party lacks cause to oppose the enforcement. If cause exists, the Enforcement Service shall if possible notify the third party in advance of the eviction.

A respite as referred to in Section 4 may be issued, if necessary, having regard to the third party.

**Section 9**

If it is considered appropriate and the applicant consents, the Enforcement Service may order the defendant to himself fulfil his obligations to move. In this connection Section 2, Section 3, first and third paragraphs together with Sections 5 and 8 shall apply.

## Enforcement in other cases

### Section 10

In cases other than those referred to in Section 1, matters concerning enforcement of obligations that do not relate to an obligation to pay together with issues concerning enforcement of decisions concerning provisional attachment or other security measures are considered by the Enforcement Service in the region where the defendant is resident or where the property that is involved is located or where the enforcement may otherwise advantageously take place. (SFS 1996:1438).

### Section 11

The defendant shall be notified before enforcement that does not relate to seizure or other security measure takes place. However, if the matter is urgent, the Enforcement Service may immediately implement necessary measures. As soon as possible, it shall be considered whether the measures shall remain in force.

### Section 12

Enforcement that does not relate to provisional attachment takes place by the Enforcement Service ordering the defendant to fulfil his obligations or to observe a prohibition or other regulation or by the Service itself implementing necessary measures. On the application of the applicant, the Enforcement Service may, if it is considered appropriate, transfer the implementation of necessary measures to the applicant in accordance with the directions of the Enforcement Service.

Section 6 applies as regards the implementation of the enforcement.

Regulations contained in the enforcement title that relate to the enforcement do not impede it being implemented in another way, if this is necessary.

**Section 12a**

If the applicant allows a postponement of enforcement and if the postponement lasts for more than six months from the date of the application, the application lapses. The same also applies if the applicant allows postponement on more than two occasions.

The Enforcement Service may grant respite with enforcement assistance for repossession of goods, if there is special reason having regard to the circumstances of the purchaser and other circumstances. However, respite may not be granted for more than four months from the date of the application for enforcement assistance.

The Enforcement Service may decide on conditions for the respite and, if there is reason to do so, declare that the respite should cease to apply. (SFS 1995:298).

**Special provisions concerning provisional attachment****Section 13**

That prescribed concerning attachment in Chapter 4, Sections 2 – 7, 9 and 13 – 19, Section 22, first and third paragraph, Sections 24, 25 and 33 – 35, Chapters 5 and 6 together with Chapter 12, Sections 3 – 5 shall apply as regards enforcement of decisions concerning provisional attachment for claims.

Provisional attachment for claims may not be made regarding pay or other benefits referred to in Chapter 7 before they have been paid out and can be attached.

**Section 14**

When property has been made subject to provisional attachment for the claim, the defendant may not transfer the property or deal with it in another way to the detriment of the applicant, unless the Enforcement Service after consulting the applicant allows this for special reasons.

As regards matters concerning the effect of provisional attachment generally, that prescribed concerning attachment in Chapter 4, Section 29, second paragraph and Section 31 together with Chapter 12, Sections 6 – 10 applies.

If personal property that is subject to provisional attachment for the debt rapidly falls in value or calls for care that is too expensive, it may at the request of a party be sold in the manner applicable to attached property.

### **Section 15**

Provisional attachment of a claim does not prevent the property being attached or made subject to provisional attachment for another claim. However, if there is other property available, that property shall be taken in claim in the first instance, unless the claim for which the attachment or provisional attachment is sought is linked with a special priority right in the property that is provisionally attached.

If property that is subject to provisional attachment for a claim is attached for another claim that is not linked with a special priority right in the property, the property shall be deemed simultaneously attached for the claim of the provisional attachment creditor. Such attachment effect lapses if the attachment applied for is revoked. (SFS 1994:480).

### **Section 16**

Chapter 6 and Chapter 12, Section 5, apply as regards enforcement of decisions concerning provisional attachment as collateral for a superior right.

Section 14 applies as regards the effect of such provisional attachment. A mortgage certificate that applies in the property may, however, not be mortgaged, unless the Enforcement Service after consulting the applicant allows this for special reasons. The same also applies to a promissory note that is registered regarding an aircraft or spare parts for an aircraft.



# Chapter 17 Expenses

## **Introductory provisions**

### **Section 1**

A payment is charged in enforcement cases for the expenses of the State for the proceedings with the Enforcement Service to the extent prescribed by the Government (administration expenses). (SFS 1992:636).

## **The applicant's liability for administration expenses**

### **Section 2**

The applicant is responsible in relation to the State for the administration expenses in the case, unless otherwise prescribed by Section 3 or 4 or by a special regulation.

As regards expenses for measures that have been requested by someone other than by the applicant in the case, the person who has requested the measure shall be deemed to be the applicant. However, when a land unit has been brought into a sale of a jointly mortgaged land unit in accordance with Chapter 12, Section 49, the applicant in the case shall also be liable for the expense caused by bringing the land unit in, if he has a subordinate right to the person who has requested the land unit be brought in.

**Section 3**

The applicant is not liable for the administration expenses for attachment in accordance with Chapter 7, Section 21 or for enforcement assistance in accordance with Chapter 8, Section 18.

Nor is the applicant liable for the administration expenses in a case concerning attachment for claims that in connection with the attachment of pay have a priority right in accordance with Chapter 7, Section 14.

In the case of eviction, the applicant is not liable for the expenses of storing the defendant's property or for other measures that substantially relate to protecting the defendant against a loss. The same also applies to expenses of a sale in accordance with Chapter 16, Section 7. (SFS Ordinance 1995:298).

**Section 4**

The Enforcement Service may grant a release completely or partially from the obligation to pay administration expenses, if there is special reason.

If only an insignificant amount remains to be paid in an enforcement case, the Enforcement Service may pay the amount to the applicant by adjusting the administration expenses to a corresponding extent. (SFS 1994:1983).

**Section 5**

Administration expenses for which the applicant is liable shall be paid in advance by him, if the Enforcement Service so requires. However, the State, municipality, country council municipality and municipal associations are not liable to make such an advance payment.

If an advance payment is not paid within the prescribed period, the enforcement shall be suspended. The Enforcement Service may in such a case also revoke a measure already taken.

## Collection of administration expenses

### Section 6

The Enforcement Service shall collect administration expenses without a special request. The time bar of a main claim does not also cover the administration expenses. Administration expenses that relate to a case concerning attachment for maintenance allowance are time barred on the expiry of the calendar year four years after when the charge has been debited. (SFS 1995:298).

### Section 7

Administration expenses in cases concerning attachment are collected out of the purchase price for the property sold, yield retained and other available funds. They may if necessary be enforced immediately at the debtor.

Administration expenses that are joint for several cases have priority before expenses that only relate to one case.

Administration expenses for enforcement assistance in accordance with Chapter 8, Section 18 may only be enforced at the person against whom the measure has been taken. (SFS 1996:130).

### Section 8

Administration expenses in cases concerning enforcement in accordance with Chapter 16 may be immediately enforced at the defendant, unless otherwise required due to the enforcement title. However, this does not apply to enforcement of decisions concerning provisional attachment or other security measure.

If property in conjunction with eviction is sold in accordance with Chapter 16, Section 7, the administration expense is collected for the sale out of the purchase price.

When administration expenses for eviction are collected at the defendant, the expense referred to in Section 3, third paragraph,

has priority before other administration expenses. (SFS 1996:130).

### **Section 9**

Administration expenses for enforcement of a decision of provisional attachment or other security measure, which is still in force when the enforcement takes place for the claim that gave cause for the measure, are deemed to be administration expenses for the latter enforcement.

If property that is subject to provisional attachment for a claim is attached for another claim, the administration expenses for the enforcement of the provisional attachment are deemed to be an administration expense in the case for attachment.

### **Section 10**

If personal property that has been made subject to an order of provisional attachment is sold in accordance with Chapter 16, Section 14, third paragraph or Section 16, second paragraph, the administration expenses for the sale are collected out of the purchase price.

If the Enforcement Service by reason of provisional attachment of real property has made an order for a measure referred to in Chapter 12, Section 8 or 9, the expense for the measure is collected out of the yield retained.

### **Section 11**

That stated in Sections 7 – 10 concerning the collection of administration expenses at the defendant does not apply to costs which, as a result of the revocation of the enforcement title, the withdrawal of the application or other special reason, should be paid for by the applicant.

If the applicant has not made an advance payment for the administration expenses for which he is liable and the expense

may not or could not have been collected from the defendant in the case, it may be immediately enforced at the applicant.

## **Expenses in disputes in connection with distribution**

### **Section 12**

As regards expenses in disputes in connection with distribution of funds that in accordance with Chapter 13, Section 7, third paragraph, are considered by the Enforcement Service, Chapter 18 of the Code of Judicial Procedure applies.

Decisions, whereby the Enforcement Service has imposed a liability to pay compensation in accordance with the first paragraph, are enforced as judgments as referred to in Chapter 3, Section 6.

## **Special provisions concerning public cases**

### **Section 13**

The provisions of Sections 2 – 5 concerning the liability of the applicant for administration expenses do not apply in public cases.



# Chapter 18 Appeal

## **Introductory provisions**

### **Section 1**

A decision of the Enforcement Service may be appealed against in writing to a district court within the Enforcement Service's operational area, as prescribed by the Government.

To the extent that it is not otherwise prescribed by this Chapter, the Judicial Matters Act (1996:242) applies in connection with appeals in enforcement cases. However, the Enforcement Service shall not be a party at court. (SFS 1996:1438).

## **Appeals against decisions of the Enforcement Service**

### **Section 2**

A decision of the Enforcement Service may be appealed against by a person to whom the decision relates, if it has gone against him. The applicant or the defendant may also appeal against a decision violating the rights of the third party.

A decision, by which a right has been reserved in accordance with Chapter 12, Section 33, second paragraph, may only be appealed against by a person who has contested such a reservation being made. (SFS 1993:516).

**Section 3**

repealed by Act (1993:516).

**Section 4**

A decision, by which the Enforcement Service has considered itself competent to take up an application for enforcement, may not be appealed against.

If the Enforcement Service considers that it is not competent to deal with an application, a District Court may upon appeal decide which Enforcement Service should deal with the case and refer it to that Enforcement Service. In this connection, Chapter 2, Section 4, first paragraph, second sentence applies. (SFS 1993:516).

**Section 5**

The following decisions may not be appealed against:

1. a decision by which a request for rectification of attachment in accordance with Chapter 4, Section 33 or 34 or for provisional attachment of a claim in accordance with Chapter 16, Section 13 has been rejected,
2. a decision by which a right has not been reserved in accordance with Chapter 12, Section 33, second paragraph,
3. a decision by which an administrator has been declared disqualified,
4. a decision in a matter referred to in Chapter 17, Section 4, first paragraph,
5. a decision in such a matter of enforcement of an arbitral award as referred to in Chapter 3, Section 16. (SFS 1999:118).

**Section 6**

A decision in a matter referred to in Chapter 12, Section 10 or 11 may not be appealed against. However, in conjunction with the

appeal of a decision by which an order for a default fine or other sanction has been applied, the consideration of the validity of the order may be demanded.

A decision that only comprises a preparation for a later decision and does not affect a third party may only be appealed against in conjunction with an appeal of the latter decision. However, the decision may be appealed against separately on the grounds that the case is unnecessarily delayed by the decision.

A schedule of interested parties may be appealed against only in conjunction with the compulsory sale or the decision for distribution of funds received being appealed against. (SFS 1994:444).

### **Section 7**

A decision concerning attachment referred to in Chapter 7 may be appealed against without limitation to a particular period.

A decision concerning attachment shall be appealed against by the applicant or the defendant within three weeks of when the decision was served on him. A third party may appeal against such attachment without limitation to a particular period. However, a decision referred to in Chapter 8, Section 9, first paragraph or Chapter 12, Section 49, third paragraph, may be appealed against within three weeks from when the decision was served on the appellant.

A compulsory sale may be appealed against within three weeks from the sale. A decision for distribution or payment out of funds shall be appealed against within three weeks of the decision.

Such an appeal as referred to in Section 6, second paragraph, second sentence, may be made without limitation to a particular period.

A decision by the Enforcement Service in other cases shall be appealed against within three weeks from when the decision was served on the appellant. (SFS 1995:298).

**Section 8**

repealed by Act (1996:248).

**Section 9**

An appeal shall be submitted to the Enforcement Service.

An appeal that has not been received in good time shall be dismissed by the Enforcement Service. If the appeal has been received by a District Court within the period for the appeal, the fact that the appeal was only received by the Enforcement Service thereafter shall not cause it to be dismissed.

If a person who wishes to appeal against a decision shows legal excuse before the period for the appeal has expired, the Enforcement Service shall fix a new period. (SFS 1993:516).

**Section 10**

If the appeal is not dismissed, the Enforcement Service shall as soon as possible submit this and other documents in the case to the District Court. (SFS 1993:516).

**Section 11**

repealed by Act (1996:248).

**Certain provisions concerning proceedings in the District Court****Section 12**

The District Court may, without the other party having been previously given an opportunity to express his views on the appeal, order that some measure for enforcement shall, until further notice, not be implemented or, if there is extraordinary reason, that a measure that has already been taken should be revoked. In connection with the attachment of pay for

maintenance allowance, the order may be limited to relate to funds received not being paid out.

The District Court may also immediately order that a measure for enforcement should be implemented and remain in force until otherwise ordered. (SFS 1995:298).

### **Section 13**

The circumstance that a decision has been made by a disqualified administrator shall not result in the decision being revoked, if the disqualification obviously had no effect on the decision. (SFS 1993:516).

### **Section 14**

In the event of the grant of an appeal against a particular decision, a later decision in the case may also be revoked if this can be done, provided this decision is connected with the former decision and had not entered into final legal force against the appellant when he appealed against the first decision. (SFS 1993:516).

### **Section 15**

If an appeal of a decision concerning distribution of funds has been granted, it also applies for the benefit of a person who has not himself appealed against the decision. (SFS 1993:516).

### **Section 16**

The decision of the District Court in a matter that is appealed against to the Court applies in the manner stated in Chapter 2, Section 19 regarding the decision of the Enforcement Service.

However, in cases concerning attachment, a measure taken shall not without a special order be annulled before the District Court decision has entered into final legal force. (SFS 1995:298).

## **Appeals against decisions of the District Court, etc.**

### **Section 16a**

A Court of Appeal may not consider an appeal against a decision of a District Court, unless the Court of Appeal has granted leave to appeal to the party.

Leave to appeal is not required if the appeal relates to a decision that affects someone other than a party, a decision by which the District Court declared the disqualification of a judge invalid or a decision by which an appeal has been dismissed. (SFS 1996:248).

### **Section 17**

A decision, by which a court has considered the Enforcement Service competent to deal with an application for enforcement or has referred a case to a particular Enforcement Service, may not be appealed against. This also applies to a decision by a court by reason of such an appeal as referred to in Section 6, second paragraph, second sentence. (SFS 1994:1038).

### **Section 18**

repealed by Act (1996:248).

### **Section 19**

That stated in Section 4, second paragraph and Sections 12, 14 and 15 also applies in the Court of Appeal and Supreme Court. That stated in Section 16 also applies in the Court of Appeal. (SFS 1993:516).

## Extraordinary remedies

### Section 20

The provisions concerning extraordinary remedies contained in Chapters 58 and 59 of the Code of Judicial Procedure apply to matters concerning decisions of the Enforcement Service in enforcement cases.

That stated in Chapter 58, Section 13 of the Code of Judicial Procedure concerning restoration of expired time also applies when orders have been made in accordance with Chapter 4, Section 20, 21 or 26 or Chapter 13, Section 7, second paragraph of that Code.

The use of extraordinary remedies may not result, in the absence of extraordinary reasons, in the revocation of a compulsory sale. (SFS 1988:1454).