

Joint Facilities Act (SFS 1973:1149)

(with amendments up to and including SFS 2006:413)

Introductory provisions

Section 1. Under this Act, a facility can be established which is common to several property units and serves a purpose of enduring importance to them (a joint facility). Questions relating to joint facilities are adjudicated by cadastral procedure.

If, under the provisions of an enactment other than the Real Property Formation Act (1970:988), the question of establishing a facility joint to several property units can be adjudicated by a court or other authority, the present Act shall not apply. Nor shall this Act apply to a public water and sewerage installation.

Section 2. The provisions of this Act concerning a property unit shall apply, *mutatis mutandis*, to a registered site leasehold and to a mine. If appropriate, the provisions shall also be applied to a building or other structure not belonging to a property unit and to a nature reserve.

Section 3. The person in possession of a property unit by testamentary disposition without the right of ownership being vested in any person shall for the purposes of this Act be deemed the owner of the property. The party administering a nature reserve shall be deemed the owner of the same.

Executory authority

Section 4. A cadastral procedure relating to facilities are handled by a cadastral authority.

If appropriate, the cadastral authority may appoint a special cadastral officer. This officer shall possess the knowledge and experience which the assignment demands and shall in other respects be suitable for the same. The provisions made in this Act concerning a cadastral authority shall also apply where relevant to a special cadastral officer as aforesaid.

Conditions for the establishment of a joint facility etc.

Section 5. A joint facility may not be established for a property unit other than that for which it is of substantial importance to have a share in the facility.

Section 6. A joint facility may be established only if the economic or other benefits of the facility outweigh the cost and inconvenience which the facility entails.

A joint facility may not be established for a building or other structure not belonging to the property unit if increased expense or other inconvenience of importance may thereby occur to another participant in the joint facility.

Section 6 a. The provisions of Sections 5 and 6 shall not apply if provisions concerning a joint facility have been made in a property regulation plan and a facility order is made during the implementation period for the detailed development plan.

Section 7. A joint facility may not be established if the owners of the property units which are to participate in the facility and the tenants of such properties widely object to the measure and have notable reasons for doing so. In this adjudication, consideration shall mainly be given to the opinion of those deriving greatest benefit from the facility. The tenants are represented by the organisation or organisations of tenants having a bargaining procedure agreement for the property units concerned or, if no bargaining procedure applies, a national organisation of tenants or an association which is affiliated to such an organisation and within whose area of activity the property units are located (the tenants' organisation).

The foregoing shall not apply if the need for the facility is exceptionally urgent.

Section 8. A joint facility shall be located and constructed in such a way that the purpose of the facility is achieved with a minimum of encroachment and inconvenience without unreasonable expense. A measure to facilitate future enlargement or increased use of the facility may be taken if the measure entails only a slight augmentation of the expense.

Section 9. In an area with a detailed development plan, a property regulation plan or area regulations, a joint facility may not be established at variance with the plan or the provisions. Minor deviations are permissible, however, if the purpose of the plan or the provisions is not contradicted.

If nature conservation provisions or other special provisions concerning the development or use of land apply, other than those referred to in the foregoing, a facility shall be established in such a way that the purpose of the provisions is not contradicted.

Exemptions from provisions referred to in subsection two may be granted at the request of the cadastral authority if there are special reasons for doing so. Questions concerning exemption shall be assessed by the County Administrative Board or, by its appointment, a municipal authority.

Provisions concerning the requirement of permits for certain enterprises and measures are contained in Chap. 7, Sections 28 a – 29 b of the Environmental Code.

A decision by a municipal authority in a matter referred to in subsection three may be contested by appeal to the County Administrative Board.

A decision by the County Administrative Board in a matter referred to in subsection three may be contested by appeal to the Government.

Section 10. In areas not covered by a detailed development plan, a joint facility may not be established if the facility would impede the appropriate use of the area, occasion unsuitable building development or frustrate suitable planning of the area.

Section 11. A joint facility may not be established if inconvenience of any importance occurs to a public interest.

The foregoing shall not apply when the facility is overwhelmingly beneficial from a public viewpoint.

Duty to surrender space

Section 12. Land or another space for a joint facility may be taken in a property unit which is to take part in the facility or from another property unit if this does not entail exceptional detriment to the property unit. The space taken, however, may not exceed what is needed according to the property units which can be connected as provided in Section 5.

Even if exceptional detriment occurs, the property unit is bound to surrender space if the facility is needed for a large number of property units or for some other reason is of substantial importance from a public viewpoint. If the owner so requests, the property unit shall be purchased. If the inconvenience is confined to a certain part of the property unit, only that part shall be purchased. Such compulsory purchase is made on behalf of the property units which are to participate in the facility, except for those referred to in Section 2.

The provisions of Chap. 1, Sections 3 and 4 of the Expropriation Act (1972:719) shall apply, *mutatis mutandis*, to a grant and a purchase under this section. In derogation of these provisions, a special right accruing to the State and not constituting a public road right may be overridden. Furthermore, it may be ordained that the right to space for the facility shall take precedence over a special right created through expropriation or other compulsory purchase or in the process of property formation or in some similar way, though not if the special right constitutes a public road right.

Transmission of property fixtures

Section 12 a. The cadastral authority may ordain that buildings or other facilities which, under Chap. 2, Section 1 of the Land Code, belong to a property unit and a suited for permanent use in the exercise of the utility easement, shall be transmitted to and jointly owned by the property units participating in the joint facility. Such an order is conditional on the measure being conducive to more appropriate use of the utility easement and on the advantages of the measure outweighing the expense and inconvenience which it entails.

Compensation for space etc.

Section 13. Chap. 5, Sections 10-12 of the Real Property Formation Act (1970:988) shall apply to matters of compensation for a grant and a purchase under Section 12 or measure as referred to in Section 12a. For this purpose, the purchase shall not be deemed a compulsory purchase as referred to in Chap. 5, Section 10 a (2) of the Real Property Formation Act.

Section 13 a. Compensation as referred to in Section 13 shall be fixed in money terms for immediate payment. Following special request, the cadastral authority may, if it is appropriate to do so, refer an interested party to present, in a special cadastral procedure, a claim to compensation for damage and encroachment which may be difficult to estimate in connection with the facility procedure. An application for special cadastral procedure shall be made within the period, not more than ten years, determined by the cadastral authority.

If the cadastral procedure refers to a property unit answering to a payment claim,

the cadastral authority may order as provided in the foregoing only if the creditors consent thereto. If the property unit has been jointly mortgaged, consent as prescribed for partial cancellation in Chap. 22, Section 11 of the Land Code must also be obtained from property owners and creditors. No consent, however, is needed from a claim holder to whom the order is substantially of no importance.

Section 13 b. This Act does not apply in matters concerning compensation for damage or encroachment which occurs after the cadastral procedure and could not have been foreseen during the same.

Section 13 c. If it is appropriate, and subject to the consent of the interested parties concerned, the cadastral authority, in the course of the cadastral procedure, may also adjudicate a request made by an interested party for compensation connected with the cadastral procedure but relating to a legal matter which is not to be adjudicated under this Act.

In the handling of matters referred to in the foregoing, the provisions of Chap. 5, Section 12 c (2) of the Real Property Formation Act (1970:988) shall apply.

Joint property unit

Section 14. A joint facility and the right to space are jointly owned by the real property units participating in the facility. Compulsory purchased land is jointly owned by the property units for which the purchase was made.

The participating property units constitute a special joint property unit for the construction and operation of the facility.

Apportionment of costs

Section 15. The grounds on which the construction costs of the joint facility are to be apportioned are determined in the cadastral procedure. For each property unit a participatory share is indicated, determined according to what is reasonable, above all in view of the benefit of the facility to the property unit. If land is compulsory purchased for only certain of the participants in the facility, the grounds for apportioning the purchase cost are separately determined.

Participatory shares are also determined with regard to the running costs of the facility. A participatory share of this kind is determined according to what is reasonable, having regard above all to the extent to which the property unit is expected to use the facility. If appropriate, it may be prescribed that the costs are primarily to be apportioned to the levying of charges for the use of the facility. The grounds for computing such charges are determined in the cadastral procedure.

Agreements between interested parties etc.

Section 16. Derogation is permissible from

1. Section 5 if the owners of the property units which are to participate in the facility consent thereto,
2. Section 8, insofar as this implies protection of a private interest, Section 12 (1) or Section 13, if the property owners and other interested parties whose rights are

affected consent thereto,

3. Section 12a, second sentence if the owner of the facility consents thereto,

4. Section 15, if consented to by a property owner incurring a larger contributory obligation than would otherwise have applied and if the derogation is not made for an improper purpose.

If a property unit answers to a payment claim, derogation from Section 13 or 15 by virtue of the owner's consent is only permissible if the creditor also consents thereto. If the property unit has been jointly mortgaged, consent as prescribed for partial cancellation in Chap. 22, Section 11 of the Land Code must also be obtained from property owners and creditors. No consent, however, is needed from a claim holder to whom the decision is substantially of no importance.

Call for cadastral procedure

Section 17. A facility question is opened following application. The question may be opened without application, however, if in the course of reallocation it has been ordained that a facility question is to be adjudicated under this Act.

A facility question may be adjudicated conjointly with another facility question or with a property formation measure in a cadastral procedure. A combined cadastral procedure of this kind may be re-divided into separate procedures.

The cadastral authority may order assessment under Chap. 14, Section 1 of the Real Property Formation Act (1970:988) if necessary in connection with a cadastral procedure under this Act.

Section 18. The following are entitled to call for cadastral procedure under this Act:

1. the owner of a property unit which is to participate in the facility,
2. the owner of a property unit of which, according to a detailed development plan, the whole or a certain part shall be used for a public space for which the municipality is not a mandator or for a traffic facility common to several property units,
3. the municipality,
4. tenants' organisation.

A joint property association may, by a resolution of the association meeting, call for cadastral procedure concerning a joint facility managed by the association.

The County Administrative Board may call for cadastral procedure for the establishment of a facility which the administration finds to be of major importance from a public viewpoint.

In connection with expropriation or similar compulsory purchase, the purchaser may call for cadastral procedure for the establishment of a facility whereby inconvenience from the acquisition can be eliminated, alleviated or averted.

Provisions concerning the right of a road authority and the party constructing or possessing a railway to call for cadastral procedure under this Act are made in Section 20a and Section 25 (3) of the Roads Act (1971:948) and in Chap. 2, Section 12 of the Railway Construction Act (1995:1649).

A joint property association managing a joint land development unit under the Joint Land Development Act (1987:11) may call for cadastral procedure under this Act if the purpose of the measure is to carry out such joint development.

Cadastral procedure

Section 19. A cadastral procedure under this Act shall be subject to Chap. 4, Sections 1-24 and 27-40, and Chap. 6, Sections 6 and 7 of the Real Property Formation Act (1970:988).

If the cadastral procedure has been called by the tenants' organisation or can otherwise affect the right of tenants, the cadastral authority shall notify the organisation of the time and place of a meeting or, in cases referred to in Chap. 4, Section 15 of the Real Property Formation Act, of the cadastral procedure before it is concluded.

Section 20. The holder of a special right to a property unit which is compulsory purchased or otherwise taken for a joint facility is an interested party in the cadastral procedure if his right is affected.

Section 21. The cadastral authority shall investigate the preconditions for the facility and shall provide any necessary technical works and evaluations. In this connection, consultations should be held with the interested parties. If necessary, consultations shall be held with the authorities affected by the facility.

If the cadastral procedure has only been called by the owner of a property unit which it is found cannot be ascribed a right of participation in the facility and of which neither the whole nor a certain part is to be used for a public space or traffic facility as referred to in Section 18 (1), this constitutes an impediment to the establishment of the facility.

Section 22. If a question of compulsory purchase arises, Chap. 8, Section 7 (1) of the Real Property Formation Act (1970:988) shall apply.

Section 23. If the municipal authority or authorities discharging duties in the planning and building sector find, in the course of consultations as referred to in Section 21, that the permissibility of the facility under Section 10 is open to question, and if, from points of view other than those referred to in Sections 10 and 11, establishment of the facility is feasible, the cadastral authority shall refer the matter to the municipal authority for adjudication. If the municipal authority finds that the last mentioned sections do not constitute an impediment to the facility, the municipal authority shall grant permission for the same.

A decision in which the authority has refused permission for the facility or granted permission conditionally may be contested by appeal to the County Administrative Board. A decision by the County Administrative Board may be contested by appeal to the Government.

A decision by the authority or a superior instance whereby permission for the facility has been refused or granted conditionally is binding on the cadastral authority.

Section 24. The cadastral authority shall make a facility order if there is no impediment establishing the joint facility.

The facility order shall indicate

1. the purpose, position, size and other main characteristics of the joint facility,
2. the property units which are to participate in the joint facility,

3. space surrendered for the joint facility,
4. property or a part thereof compulsory purchased,
5. a building or other facility subject to an order as provided in section 12 a,
6. the duration of the joint facility, if it is found that this should be determined,
7. the time within which the joint facility shall be constructed,
8. necessary regulations concerning the design of the joint facility.

The facility order may also indicate the participatory shares of the property units participating in the facility, with regard to the cost of constructing and operating the facility.

If a facility question is adjudicated conjointly with a property formation measure in a cadastral procedure, the facility order may be included in the property formation order.

Section 24 a. In the facilities order, the cadastral authority can determine that the governing body of a joint property association may resolve on amendment of participatory shares on the basis of a permanent change in the way in which a property unit is used.

The governing body shall immediately notify the property owner concerned of a decision as aforesaid. Furthermore, the governing body shall at the earliest possible opportunity give notice of the decision for entry in the general section of the Real Property Register. The decision may not be implemented until such entry has been made.

The decision by the governing body concerning amendment of participatory shares may not be appealed. A person dissatisfied with the decision may bring proceedings against the association as provided in Section 46 of the Joint Property Units (Management) Act (1973:1150), concerning remedy in connection with assessment.

Section 25. Where appropriate, a facility order may be made in spite of technical works and evaluations not having been carried out.

Section 26. Possession of space taken or land compulsory purchased takes place at the point in time determined by the cadastral authority. Before possession is taken, the facility order shall have acquired force of law and compensation as provided in Section 13 shall have been paid.

Section 27. Possession may be taken regardless of compensation as provided in Section 13 not having been paid, if the interested parties concerned consent thereto. Possession may also be taken without consent after the cadastral authority has determined an advance of the compensation finally awarded and the advance has been paid. If it is obvious that the advance would be only an insignificant amount, the cadastral authority may prescribe that possession may be taken without an advance being paid.

In an order concerning an advance payment, it shall be indicated how liability for payment is to be apportioned between the part-owners of the facility. The order shall further indicate the time within which an advance payment, on which possession is conditional, shall have been paid. If the payment has not been made within the allotted time, possession may not be taken before compensation as provided in Section 13 has been paid.

The cadastral authority, acting at the request of an interested party, may also determine, after possession has been taken, that an advance shall be paid.

On an advance having been determined as provided in this Section, the definitive compensation may not be set at an amount smaller than the advance. This, however, only applies if possession has been taken or if the advance has nevertheless been paid.

Section 27 a. The provisions of Chap. 5, Section 30 a of the Real Property Formation Act (1970:988) concerning advance possession apply, *mutatis mutandis*, to cadastral procedure under this Act. The provision made concerning a property formation order shall then be applied to a facility order. By corresponding application of the provisions concerning advance possession, it may be ordained that the facility order may also be effected in other respects in spite of not having acquired force of law.

Section 28. A cadastral procedure commenced by order in connection with reallocation shall be cancelled if the reallocation procedure is cancelled. The procedure shall continue, however, if an interested party who has presented a claim in connection with the cadastral procedure and has been able to apply for the same so requests. If the interested parties are notified of the cancellation of the reallocation procedure at a meeting, the request shall be presented at the meeting. Otherwise the request shall be presented within the time limit set by the cadastral authority.

Section 29. The cost of the cadastral procedure shall, if a facility order has been made, be apportioned on an equitable basis between the owners of the property units which are to participate in the facility.

If cadastral procedure has been called as provided in Section 20 a or 25 (3) of the Roads Act (1971:948), the cost of the cadastral procedure shall be borne by the State.

If cadastral procedure has been called as provided in Chap. 2, Section 12 of the Railway Construction Act (1995:1649), the cost of the cadastral procedure shall be borne by the party requesting the same.

In other respects, Chap. 2, Section 6 of the Real Property Formation Act (1970:988) shall apply to a cadastral procedure pursuant to this Act.

Judicial proceedings

Section 30. Chap. 15 of the Real Property Formation Act (1970:988) shall apply, *mutatis mutandis*, to the prosecution of actions against an order or measure by the cadastral authority pursuant to this Act. The provisions concerning property formation orders shall then be applied to facility orders.

An action against a facility order or an order to cancel a cadastral procedure requested by a tenants' organisation may be appealed by the organisation on the same terms as by interested parties.

A decision by the cadastral authority pursuant to Section 4 (2) and 33a of this Act may be contested by separate appeal, in the manner and within the time indicated in Chap. 15, Section 2 of the Real Property Formation Act.

For the purposes of Chap. 15, Section 6 of the Real Property Formation Act in the matter of approval under Section 43 of this Act, the appeal period shall run from the day of the order by the cadastral authority. An authority as referred to in Section 23 and the County Administrative Board may appeal against an order concerning such

approval as if against a facility order. The provisions of Chap. 15, Section 6 (3) of the Real Property Formation Act shall apply to decisions by the cadastral authority concerning the invoicing of costs for assessment of approval transactions under Section 43.

Section 31. The provisions of Chaps. 16-18 of the Real Property Formation Act (1970:988) concerning judicial proceedings in property formation cases shall apply, *mutatis mutandis*, to cases prosecuted under Section 30.

In judicial proceedings, a tenants' organisation is equated with an individual interested party if the organisation has brought an action against the order by the cadastral authority or the matter can otherwise impinge on the rights of tenants.

Enforcement etc.

Section 32. Compensation as referred to in Section 13 shall be paid within three months of the compensation order acquiring force of law. Insofar as the compensation is paid after the expiry of this limit, interest, as provided in Section 6 of the Interest Act (1975:635), shall also be paid on the compensation from the expiry of the time limit. If possession was taken before the limit expired, interest, as provided in Section 5 of the Interest Act, shall also be paid from the day on which possession was taken and until payment is made or interest becomes payable under point 2 of this Section.

In matters of compensation referred to in subsection one and advance payments referred to in Section 27 or 27 a, Chap. 5, Section 16 of the Real Property Formation Act (1970:988) shall apply, *mutatis mutandis*.

Section 32 a. A decision by the cadastral authority, pursuant to the provisions of this Act, to order a person to pay compensation to an interested party may be enforced as provided in the Enforcement Code.

In the event of a person refusing without cause to surrender land or a building within the proper time, the person taking possession is entitled to obtain assistance from the Swedish Enforcement Authority in order to gain possession of the property.

Section 33. If, within a year of the compensation order acquiring force of law, compensation as provided in Section 13 has not been fully paid in due order and no person awarded such compensation in the order has requested enforcement of the order in this respect, the facility order shall lapse. The facility order shall also lapse if the facility has not been constructed within the time allotted in the order, unless an application for the appointment of a custodian has been made within the same time as provided in Section 33 a. If such an application has been refused, the facility order shall lapse when the refusal has acquired force of law and the time for implementation has expired.

If the facility order provides for a property unit or a part thereof to be compulsory purchased, the order applies in this respect, in derogation of the foregoing.

If there are special grounds for doing so, the cadastral authority may extend the time limit referred to in subsection one.

Compensation which has been paid may not be recalled on account of the facility order having elapsed as provided in this Section.

The provisions of the first sentence of subsection one do not apply to compensation

awarded in special cadastral procedure under Section 13 a.

Section 33 a. If there is reason to fear that the facility will not be constructed within the time allotted in the facility order or in an extension order, the cadastral authority, on application being made by a party entitled under Section 18 to request cadastral procedure, may appoint a custodian for the implementation of the facility order. The said custodian shall have the powers otherwise vested in the part-owners.

In its letter of appointment for the custodian, the cadastral authority shall indicate the time within which the custodian shall have implemented the facility order. The cadastral authority may order an extension of this time if there are special reasons for doing so.

The cadastral authority decides on the remuneration of the custodian and on the apportionment of this payment between the part-owners. If the payment has not been rendered within the time allotted by the cadastral authority, the authority's order may be enforced under the Enforcement Code.

Section 34. On cadastral procedure under this Act having been concluded and having acquired force of law, an entry to this effect shall be made in the Real Property Register at the earliest possible opportunity. If the cadastral procedure has been appealed, the entry shall be made in the general section of the Real Property Register at the earliest possible opportunity after the court's decision has acquired force of law.

An entry concerning a facility order which it has been possible to appeal by separate process may be made in the general section of the Real Property Register even if the cadastral procedure has not been concluded. The entry may not be made, however, before the order has acquired force of law.

When an order or a measure in a completed cadastral procedure has been appealed or when a facility order has been contested by separate appeal, an entry concerning the cadastral procedure or the order may nevertheless be made in the general section of the Real Property Register with respect to such a part as is manifestly unaffected by the appeal. The same applies when appeal has been made against a court decision in proceedings under this Act.

If a cadastral order has ceased to apply, an entry as referred to in subsections one-three shall be removed.

Effects of changing conditions etc.

Section 35. If, following the determination of a question forming the subject of a cadastral procedure under this Act, there occurs a change of circumstances with a substantial bearing on the issue, the issue may be adjudicated in a new cadastral procedure. Even if no such change has occurred, a new cadastral procedure may take place if, in the previous decision, it was prescribed that the question may be reconsidered after a certain period of time and that period has expired, or if a clear need for reconsideration has otherwise emerged.

In the new cadastral procedure, the circle of property units participating in a joint facility or the participatory share of a property unit may not be altered in such a way as to cause considerable inconvenience from a public or private point of view.

If the new cadastral procedure only concerns an amendment which does not affect

the design of the settlement or the land use generally, permission as referred to in Section 23 need not be obtained from an authority as referred to in that Section.

If the new cadastral procedure concerns a matter of a simpler nature relating to the participation of a property unit in a joint property unit or to amendment of the participatory share of a property unit and the joint property unit is managed by a joint property association, the association represents those part-owners who have not requested to withdraw or for whose participatory shares no amendment is proposed.

Section 35 a. A question concerning the transmission of buildings or other facilities under Section 12 a, may be assessed in a new cadastral procedure, even if the conditions in Section 35 (1) are not satisfied.

If the joint facility is managed by a joint property association, the association represents the part-owners in the new cadastral procedure.

Section 36. On an amendment being made concerning the property units which are to be connected to the joint facility and if the joint property unit affiliated to the facility is managed by a joint property association, it shall be adjudicated whether the association is to be dissolved. If the association also manages another joint property unit, it shall instead be adjudicated whether the branch of activity constituted by the facility is to be discontinued.

Section 37. Upon the entry of a property unit into a pre-existing joint property unit, the owner shall be required to pay compensation to other part-owners for the share in a surplus, computed as provided in Section 39, accruing to him through the affiliation.

The foregoing shall apply, *mutatis mutandis*, on an increase being made to the participatory share of a property unit included in the joint property unit.

Section 38. If a property unit withdraws from a pre-existing joint property unit, the owner shall be awarded compensation for the share in a surplus, computed as provided in Section 39, which he loses through the withdrawal. If, according to the same Section, there is a deficit, he shall be required to pay compensation for his share in the same.

The foregoing shall apply, *mutatis mutandis*, if the participatory share of a property share is reduced.

Section 39. In the case of a joint property unit managed by a joint property association, for the purposes of Section 37 and 38, a surplus or deficit shall be deemed to constitute the difference between the value of the facility and the assets of the association, on the one hand, and the commitments of the association on the other. In the case of any other joint property association, the value of the facility shall be regarded as a surplus. The value of the facility is estimated according to what is reasonable, having regard above all to its construction costs and to its age and continuing serviceability.

In the event of different participatory shares applying to the construction and operation of the facility, the surplus or deficit shall be separately computed for every such branch of activity.

Section 40. Section 32 (1) shall apply, *mutatis mutandis*, to the payment of

compensation as provided in Section 37 or 38.

Section 41. If a property unit affiliated to a joint facility is included in amalgamation, the obligations of the property unit towards other part-owners shall pass to the newly formed property unit.

The foregoing shall apply, *mutatis mutandis*, when the property unit is transferred in its entirety to another property unit through reallocation.

Section 42. On the division of a property unit affiliated to a joint facility, the obligations of the property unit to other part-owners shall be apportioned between the separate parts by an order made in the course of the property formation procedure.

The foregoing shall apply, *mutatis mutandis*, when part of a property unit is transmitted to another property unit by reallocation.

Apportionment shall proceed on the basis indicated in Section 15. This applies only until otherwise determined under this Act and shall not be taken into account for the purposes of Section 35.

Section 42 a. In connection with a property formation procedure, the cadastral authority may order that a newly formed or re-formed property unit shall be affiliated to an existing joint facility.

If the cadastral authority orders affiliation, the authority shall also determine the participatory share of the property unit and shall consider the question of remuneration as referred to in Section 37.

If the joint facility is managed by a joint property association, the association represents the part-owners in the procedure.

Section 43. An agreement for a property unit to enter into or withdraw from a joint property unit or for the participatory share of a property unit to be amended has the same effect as an order in the course of a new cadastral procedure if it is approved by the cadastral authority. Such approval may only be granted if it is clear that the agreement is not at variance with this Act.

Section 44. On a site leasehold being granted in a property unit participating in a joint facility, the site leasehold, having been registered, shall participate in the facility in the place of the property unit.

Section 45. An entry concerning apportionment as referred to in Section 42, affiliation as referred to in Section 42 a and approval as referred to in Section 43 shall be made in the general section of the Real Property Register as soon as possible after the apportionment, affiliation or approval has acquired force of law.

Special provisions concerning private roads

Section 46. A road includes carriageway and other road appointments.

An appointment needed for the maintenance, operation or use of the road is a road appointment. A landing stage or a ferry and ferry terminal connected to a road is also a road appointment.

Section 47. If there are special reasons for so doing, a property unit may be affiliated to a joint facility referring to a road in spite of the facility catering to only a temporary need of the property unit.

Section 48. In the case of a joint facility concerning a road, for the purposes of Section 15 (2), the costs of the measures required in order for the road to be usable in wintertime may be separately apportioned.

Section 48 a. If a property unit participating in a joint facility referring to a road makes temporary use of the facility to a substantially greater extent than can be deemed to correspond to the property unit's participatory share in the running costs, the owner of the property unit is obliged to make reasonable recompense to the joint property unit for the cost arising in consequence of the change of use.

In the event of a dispute concerning a question referred to in the foregoing, proceedings shall be filed with the land court.

Section 49. The right for a property unit to construct a road across another property unit or to use an existing road may be granted if this is of substantial importance for satisfying the need of the property unit for a road. The right to construct a road across another property unit or to use an existing road may be granted only if such a grant, for special reasons, is more appropriate than the formation of a joint facility or the affiliation of the property unit to a previously formed facility.

A grant as aforesaid may not be made if it entails exceptional detriment to the granting property unit or to another property unit entitled to use the road.

Concerning compensation for the grant of a right to construct a road across another property unit, Section 13 shall apply. Concerning compensation for another grant under subsection one of this Section, Section 50 a (2) shall apply.

Section 50. Where substantially important for the appropriate use of the property unit, the property unit may be granted the right of temporarily using a road not belonging to the property unit. A grant of this kind may not be made if exceptional detriment is caused to another property unit which is entitled to use the road or to a property unit across which the road passes.

Compensation for a grant as referred to in the foregoing shall be paid in accordance with what is equitable, having regard above all to the wear which the use of the road is expected to cause to the carriageway. Such compensation shall be awarded as a lump sum or as a payment to be made in advance of each year for the length of time to which the right of using the road refers and is exercised by the party entitled.

Section 50 a. If a joint facility referring to roads is managed by a joint property association and use of a road included in another joint property association is of substantial importance to the participating property units, the right to use the road may be granted to the joint property association. This applies only if such a grant, for special reasons, is more appropriate than the affiliation of the property units to the other facility.

Compensation for a grant as aforesaid shall be paid according to what is reasonable, having regard above all to the wear and tear to the road surface which is expected to result from the use of the road. Such compensation shall be determined as being

payable once and for all or in advance of each year.

Section 51. If, pursuant to this Act, a property unit has incurred the obligation to contribute towards the cost of constructing or maintaining a road and if the construction or maintenance of the road requires the extraction of sand, gravel, earth or stone from another property unit or the felling or pruning of growing trees, bushes or other vegetation or the erection of a snow screen on the property unit, the right to the same can be granted to the property unit first mentioned. If necessary with a view to traffic safety, the right to clear trees, bushes or other vegetation may be granted to a property unit entitled under this Act to use the road.

A grant as referred to in the foregoing may not be made if it entails exceptional detriment to the servient property unit. Compensation shall be paid for the grant and for encroachment occasioned by the same. Compensation for the right of extracting road-making materials shall be determined for lump sum payment. If, however, such a right is not exclusively reserved for the property unit for which the grant is made, it may be determined that compensation shall be paid on every occasion when the right is exercised, according to a certain price for the amount then taken.

When a right as referred to in the foregoing is granted and used, it shall be ensured that the servient property unit is not burdened more than necessary. Trees of major ornamental value or trees and bushes within a building site or in a garden may not be felled unless there are exceptional reasons for doing so. The property owner or tenant shall be previously advised of every occasion on which the right of removing or pruning trees, bushes or other vegetation is exercised.

Section 52. On a property unit, pursuant to this Act, having been granted the right to build or use a road, it may be determined, in favour of that property unit, that no gate or barrier may be retained or erected on the road. A prohibition of this kind may not refer to a gate or barrier on a railway crossing, tramway crossing or waterway crossing. Application of the prohibition may in other respects be limited according to what is equitable.

A prohibition as aforesaid may not be made if it entails exceptional detriment to a property unit. Compensation, payable as a lump sum, shall be awarded for encroachment entailed by the prohibition.

Section 53. Questions concerning a right referred to in Sections 49-52 shall be adjudicated in a cadastral procedure under this Act. Otherwise, it is opened on application being made by the owner of the property unit or, as regards a right referred to in Section 50 a, the joint property association in favour of which the right is to apply. The question may be adjudicated conjointly with a facility question or a property formation measure in a cadastral procedure.

In the cadastral adjudication, Sections 8-11, Section 12 (3) and Section 16 shall apply, *mutatis mutandis*. The reference in Section 16 to Section 12 (1) shall then be to the provisions of Sections 49-52 concerning the conditions governing the grant of the right, and the reference to Section 13 the provisions of the same sections concerning compensation for the grant. Section 16 (2), however, shall only apply concerning compensation for a grant, pursuant to Section 49, referring to the right to construct a road across another property unit.

Section 54. In questions concerning grants pursuant to Section 49, Sections 32 and 33 shall apply, *mutatis mutandis*.

If lump sum compensation has been awarded for a right as provided in Sections 49-52, the compensation shall be paid within three months of the compensation order having acquired force of law. The right may not be exercised before payment has been made. As regards the effects of failure to pay the compensation, Section 33 (1) shall apply, *mutatis mutandis*. If compensation as provided in Sections 49-51 has been awarded at a certain annual amount, the right may not be exercised in any year before the amount for that year has been paid.

Section 55. If a road is to be built in such a way as to cross or otherwise affect a public highway, railway, tramway, canal or drivable watercourse, the management of this other traffic route is entitled to effect the appointments thus occasioned. If the management itself does not carry out this work, the management shall supervise the work and, if the appointments are not effected in a manner safe for traffic, shall in good time give notice of this fact to the appropriate authority, which may issue such regulations as are needed.

Section 56. If necessary for traffic safety with regard to a certain private road or part of a private road, a national road authority may ordain that the provisions of Sections 43, 45-47, 51-53, 61, 64-69 and 72 of the Roads Act (1971:948) shall apply where relevant.

The provisions of Sections 45-47, 52, 53, 64 and 72 of the Roads Act concerning the County Administrative Board shall instead refer to the road authority.

The provisions concerning a road authority made in the Roads Act *viz* in Section 61, in Section 63 (2) concerning an injunction made by authority of Section 52, in Section 65 concerning compensation under Section 61 and in Sections 66 and 69 shall instead refer to the State.

Section 57. An order made by a road authority as provided in Section 56 may be appealed in a general administrative court.

Appeal to the administrative court of appeal is subject to leave of appeal.

An order by the road authority shall apply immediately unless otherwise determined in the order.