

Expropriation Act (SFS 1972:719)

(with amendments up to and including SFS 2005:941)

Chap. 1. Introductory provisions

Section 1. A real property unit belonging to a party other than the State may be claimed through expropriation under this Act with freehold title, right of user or easement. A special right to a property unit may also be cancelled or restricted by expropriation if the right is vested in a party other than the State.

Section 2. For the purposes of this Act, a special right to a property unit is a right of user, easement, right to electric power and a right of a similar nature. Notwithstanding the equation, under Chap. 13, Section 26 of the Land Code, of site leasehold with real property for purposes of expropriation, site leasehold may be cancelled or restricted through expropriation. The provision in Section 1 concerning a special right does not apply to reindeer herding rights under the Reindeer Husbandry Act (1971:437) or to public road right.

The provisions of this Act concerning real property units apply, *mutatis mutandis*, concerning a building or other facility within a property unit belonging to another party.

Section 3. On a property unit being expropriated with freehold title, a special right in the property unit created by voluntary grant shall cease, unless the right is to be left inviolate by virtue of an order in the expropriation permit or an agreement confirmed by a court of law. An order for the continuance of a special right may be made only if it is manifestly of no importance for the right vested in a creditor having a mortgage lien on the property unit. An agreement as aforesaid may be confirmed only if the creditors who have a mortgage lien on the property unit or on a property unit jointly mortgaged with the same and whose right is affected by the measure have consented to the confirmation. No consent is required, however, from a creditor for whose right the continuance of the right is substantially of no importance.

A special right in the property unit other than aforesaid continues after the expropriation, unless otherwise ordained in the expropriation permit.

Subsections one and two do not apply to a special right vested in the State. Such a right is unaffected by the expropriation. The aforesaid also applies to a right of way vested in a party other than the State.

The liability of the property unit for a payment claim ceases through the expropriation. This does not apply, however, to a preferential claim as referred to in Section 6, paragraph 1 of the Rights of Priority Act (1970:979).

Section 4. A right of user or an easement created by expropriation takes precedence over another right in the property unit, except for a special right created by expropriation or other compulsory purchase or in connection with property formation or in a suchlike manner. A special right vested in the State and a right of way vested in a party other than the State is not, however, in any case affected by the expropriation.

Section 5. The provisions concerning expropriation of a property unit apply, where

relevant, if a special right in a property unit is expropriated or affected by expropriation, unless otherwise indicated.

The provisions of this Act concerning an interested party do not apply to the holder of a payment claim for which the property unit answers.

Section 6. Repealed.

Section 7. If the question arises of compensation for damage or encroachment which has occurred subsequent to the determination of the expropriation case and could not have been foreseen in the case, this Act does not apply.

Chap. 2. The purposes of expropriation

Section 1. Expropriation may take place in order to enable a municipality to dispose of land or other space which, in view of future development, is required for future urban development or a related arrangement.

Expropriation for a purpose as aforesaid may only refer to land or other space situated within the municipality's own area.

Within an urban area, expropriation may take place only

1. if there is cause to assume that the land or space will within the foreseeable future be affected by a building or construction measure which is of substantial importance from a public viewpoint, or

2. if, for the promotion of planned building or for some other, comparable cause, it is imperative that the municipality obtain disposition of the land or space.

By corresponding application of subsections (1)-(3), expropriation may take place in favour of a county council or an inter-municipal association handling a matter which subsection one is intended to promote.

Section 2. Expropriation may take place in order to provide space for a facility catering to a public need of traffic, transport or other communication.

Section 3. Expropriation may take place in order to provide for a public need of electric power or other motive power, water, heat or suchlike utility or to remove and neutralise waste water or some other pollution.

If a conduit for a utility as aforesaid or for waste water or other pollution is to be included in a mains network of importance to the kingdom or for a certain locality or if the encroachment from the conduit is slight by comparison with its benefit, expropriation may take place even in the absence of a public need for the conduit.

The foregoing does not apply to such claim to a property unit for the provision of hydro power or for mining operations concerning which provision is made in another enactment.

Section 4. Expropriation may take place in order to provide space for economic activity or a facility for the same of major importance to the kingdom or the locality or to a certain group of the population.

The foregoing does not apply to such claim to a property unit for mining operations as is provided for in another enactment.

Section 5. Expropriation may take place in order to establish a protection or security area or to provide space for a special arrangement, if the area or arrangement is needed for protection against a natural disaster which is detrimental from a public viewpoint, against water pollution or air pollution or against other detrimental effects of an industrial or other facility.

Section 6. Expropriation may take place for military defence or for another purpose of special importance for the total defence establishment.

Section 6 a. Expropriation may take place in order to give the State the possibility of disposing of land or other space which, through an impending change in the national boundary, is to be transferred to the other country.

Section 7. Expropriation may take place in order to put or keep a property unit in satisfactory condition when gross neglect exists or is to be feared.

Section 7 a. Expropriation may take place in order to make provision for public fishery conservation or for scientific investigations and experiments with regard to fisheries.

Section 8. Expropriation may take place in order to preserve settlement of outstanding historical or cultural interest or outstanding permanent ancient monument or in order to provide requisite space around the same.

Section 9. Expropriation may take place in order to preserve an area as a national park, a nature reserve or a natural monument or otherwise to cater to an essential need for land or a facility for sport or outdoor recreation, if it is the intention for the land or facility to be kept available to the general public.

Section 10. Expropriation may also take place in a case other than referred to in Sections 1-9 in order to provide space needed for a building, premises or other facility for activity which the State, a municipality, a county council or an inter-municipal association has to cater for or which is otherwise of essential importance to the kingdom or the locality or to a certain group of the population.

Section 11. If, through the agency of the State, a municipality, a county council or an inter-municipal association, a building or construction measure which may occasion expropriation as provided in Sections 1-10 is to be taken in a certain area and there is reason to suppose that the measure will substantially enhance the value of a property unit in the immediate vicinity of the area or considerably augment the possibilities of using such a property unit, the property unit may be expropriated by the party taking the measure if this is reasonable, having regard to the cost of the measure and other circumstances. The aforesaid concerning a property unit applies, *mutatis mutandis*, to a special right in a property unit.

Section 12. An expropriation permit shall not be granted if the purpose ought suitably to be provided for in another way or the inconvenience entailed by the expropriation from a public and private point of view outweighs the advantages which can be

derived from it.

Expropriation in favour of a party other than the State, a municipality, a county council or an inter-municipal association may take place only if the expropriating party can answer in a dependable manner for the expropriated property being applied to the purpose intended.

Chap. 3. Expropriation permits etc.

Section 1. The question of expropriation permits is adjudicated by the Government.

The Government may, however, delegate adjudication of the question of an expropriation permit to the County Administrative Board or, when there is special reason for doing so, to another public authority if the application has not been contested or the matter is of minor importance from a public and private point of view.

Section 2. An application for an expropriation permit shall be in writing and shall give

1. the claim and the circumstances on which it is based,
2. the property unit affected by the expropriation,
3. the name and address of all interested parties known to the applicant.

The applicant shall also submit the investigation material which may be deemed necessary in each individual case.

Section 2a. If an application for an expropriation permit refers to a property unit owned by a dissolved company or other dissolved body corporate, the Chief Guardian may appoint a guardian *ad litem* as referred to in Chap. 11 of the Children and Parents Code to represent the body corporate in matters relating to the expropriation.

If a guardian *ad litem* needs to be appointed as provided in subsection 1, the Government or the authority referred to in Section 1 (2) shall notify the Chief Guardian to this effect.

Section 3. If the party applying for an expropriation permit has a right of user in the property unit and a permit is granted, the applicant is entitled, regardless of what might otherwise apply, to use the property unit to the same extent as before until the expropriation is completed or until the next moving day occurring after three months when the expropriation permit lapsed or the right of expropriation was forfeited. Pending final settlement of the question of a permit, it may be ordered that the applicant may not be divested of the property unit against his contestation before the next moving day occurring after three months from the application being adjudicated. In the absence of a moving day provision, the duty to quit shall instead occur when three months have passed from the expropriation permit lapsing or the right of expropriation being forfeited or from the expropriation application being adjudicated.

If, by authority of the foregoing, the applicant uses the property unit beyond the day when the right of user would otherwise have ended, the property owner is entitled to reasonable remuneration for the continued use. If the remuneration cannot be agreed on, it shall be determined by the land court.

If expropriation does not occur and the right of the applicant to remove a building of his own or anything else from the property unit is restricted by agreement or law to

a certain time after the termination of the right of user, the time shall be counted from the day on which the applicant, under the foregoing, is to quit the property.

The first three subsections shall apply, *mutatis mutandis*, to cases where the applicant has an easement in the property unit.

Section 4. In an expropriation permit it shall be determined what the expropriation is to comprise and by what right the expropriation is to take place.

If the applicant, before he has begun taking the measures for which expropriation is applied for, has special difficulty in indicating in detail what needs to be claimed, a permit for expropriation can be granted mainly in agreement with what has been indicated on a plan or on the ground or otherwise.

Section 5. If special provisions are needed to ensure that the expropriated property is used for the purpose intended, such provisions shall be made in connection with the expropriation permit. It is incumbent on the County Administrative Board to ensure that provisions made are complied with. To this end the County Administrative Board may set a contingent fine.

Section 6. An expropriation permit lapses if the cause has not been prosecuted by the filing of a summons application with a court of law within one year of the permit being granted.

If the expropriation permit has lapsed as aforesaid or as provided in Chap. 5, Section 15 (2) or Section 18 (3) or if the expropriation permit has been cancelled as provided in Section 10 and a new expropriation permit for the property is requested thereafter by the same applicant and on the same expropriation grounds as previously, such a permit can be granted only if there is special cause for doing so.

Section 7. An expropriation right may pass from the holder to another party only by consent of the public authority which issued the expropriation permit.

Section 8. If an expropriation permit has been granted for part of a property unit and a residual part of the property unit suffers exceptional detriment through the expropriation or the manner in which the expropriated part is used, the court shall order expropriation of the part suffering such detriment, if the owner so requests. If a right of user or an easement is to be granted and this causes exceptional detriment to the property unit or to any part of it, the court, at the owner's request, shall order expropriation of an area suffering such detriment.

If only part of a property unit is expropriated or if a right of user or an easement is to be granted, the expropriating party is entitled to such enlargement of the expropriation as is referred to in the foregoing, if this will entail only a slight increase in the expropriation money to which the property owner is entitled and the property owner does not have a notable interest in retaining the residual part of the property unit.

For the purposes of subsection two, the cost of a measure referred to in Chap. 4, Section 1 (2) shall be included in the expropriation money.

Section 9. If a decision in a matter referred to in this chapter has been made by an administrative authority other than the Government, an action against the authority's

decision shall be brought before the Government by appeal.

Section 10. The Government shall cancel an expropriation permit entirely or partly if, since the permit was granted, conditions have changed in such a way that the prerequisites of the permit no longer exist.

Questions concerning the cancellation of expropriation permits are adjudicated, on notice being given, by the court handling the expropriation case. Such notice may be given only if the property owner has shown probable cause for the permit being cancelled.

Chap. 4. Expropriation money

Section 1. For a property unit expropriated in its entirety, purchase money shall be paid to an amount corresponding to the market value of the property unit, except where otherwise indicated by the provision made below. If part of a property unit is expropriated, encroachment money shall be paid to an amount corresponding to the reduction caused by the expropriation in the market value of the property unit. If damage is otherwise incurred by the owner through the expropriation, such damage shall also be paid for. Expropriation money shall not, however, be paid for land or other space which is included in a public highway and which, according to a detailed development plan, is intended for a public space of which the municipality is the mandator.

If the expropriating party has undertaken to take a measure to alleviate damage, this shall be taken into consideration when determining the expropriation money, if the undertaking is of such a kind that it ought reasonably to be accepted by the party entitled to compensation.

If a property unit in which the expropriating party has a right of user or an easement is expropriated, no consideration shall be had, in determining the value of the property unit, to an improvement gained by the property unit as a result of work or expenditure which the expropriating party, or a previous owner whose right has passed to him, has devoted to the property unit over and above what was incumbent upon him.

Section 2. If the enterprise for the conduct of which a property unit is expropriated has entailed an effect of any significance on the market value of the property unit, purchase money shall be determined on the basis of the market value which the property unit would have had if such effect had not occurred, though only insofar as is found reasonable, having regard to conditions in the locality or to the general occurrence of similar effect under comparable conditions. If the expropriation refers to part of a property unit, the aforesaid concerning calculation of market value shall be applied with regard to the value before the expropriation.

If a property unit is expropriated as provided in Chap. 2, Section 11, subsection one shall be applied to increase in the property value due to the measure constituting grounds for the expropriation.

Section 3. In determining purchase money, an increase of any importance in the market value of the property unit occurring from the day ten years before the expropriation application, though not more than fifteen years before the filing of proceedings with a court of law, shall be credited to the owner only insofar as it is

established that the increase is due to other things than expectations concerning a change in the permitted use of the land or other space. If the expropriation concerns part of a property unit, the aforesaid concerning calculation of market value shall be applied with regard to the value before the expropriation. The valuation shall be made according to the state of the property unit when the question of compensation is determined or, if possession of the property unit has been taken or the property unit has passed to the expropriating party as provided in Chap. 6, Section 10 before then, when possession was taken or the passing took place.

If a decision concerning a detailed development plan has preceded the expropriation application and the plan designates the land or space for private building development, subsection one shall apply solely to the increase in property value occurring after the decision.

If the expropriation refers to a built-up property unit possessed mainly for the purpose of providing housing accommodation for the owner and persons close to him, the restriction on the application of subsection one applies in such a way that the purchase money may not in any case be set at a lower amount than is required for the procurement of another, equivalent residential property.

Insofar as it is established that the increase in the property value, without being connected with expectations concerning a change in the permitted use of the land or space, is due to the influence of the enterprise for the implementation of which expropriation takes place, Section 2 applies.

Section 3 a. Expropriation money for land or other space which, according to a detailed development plan, is intended for a public space shall be determined according to the planning conditions prevailing immediately before the land or space was indicated as a public space.

Section 4. If the property unit in its entirety has been taken possession of or has passed to the expropriating party as indicated in Chap. 6, Section 10, any change occurring in the value of the property unit thereafter shall not be taken into account when determining the expropriation money. The same applies in cases where the property unit has only partly been taken possession of or passed to the expropriating party, unless the change in value is due to the condition of the residual part changing.

If a rise in the general level of prices has taken place subsequent to the property unit being taken possession of or passing to the expropriating party as indicated in Chap. 6, Section 10, the compensation shall be adjusted accordingly.

Section 5. If a measure has been taken with the obvious intention of increasing the money which the expropriating party has to pay, the compensation shall, if there is cause for so doing, be determined as if the measure had not been taken.

If a special right in a property unit is expropriated, subsection one, in cases where a measure has been taken by the owner of the property unit with the intention there indicated, shall be applied in such a way that the expropriating party obtains compensation through a reduction of the payment to which the owner is entitled.

Chap. 5. Judicial proceedings in expropriation cases etc.

Section 1. A land court is the court of first instance for expropriation cases.

Section 2. Expropriation cases are tried by the land court within whose area the property unit is situated.

If property units situated in the areas of different land courts are to be expropriated and, for the determination of expropriation money, the property units ought preferably to be treated as one unit, the question of expropriation is adjudicated by the land court determined by the Government or by another public authority authorised thereto by the Government.

Section 3. A point of claim from the expropriating party or an interested party connected with the expropriation but relating to legal conditions not to be adjudicated under this Act may be adjudicated in the expropriation case if this is appropriate.

Section 4. Proceedings in expropriation cases may be filed by the party who has applied for or obtained an expropriation permit. If a permit has been granted and possession of the property unit or a part thereof has been taken by the expropriating party, the owner of the property unit or another interested party whose right is affected by the taking of possession may also file proceedings.

Section 5. If proceedings are filed by the expropriating party, he shall state in the summons application

1. the circumstances on which his claim is founded,
2. the points of claim presented,
3. the names and addresses of all interested parties known to him,
4. the compensation he offers and the circumstances on which the offer is founded,
5. the written evidence he pleads,
6. the point in time at which he desires to take possession of the property or, if possession has been taken, the day when this occurred,
7. the circumstances on which the competence of the court is based, unless indicated by other submissions made.

Points 1-3, 5 and 7 of subsection one shall apply, *mutatis mutandis*, when proceedings are filed by a party other than the expropriating party.

Section 5 a. If the proceedings refer to a property unit owned by a dissolved company or other dissolved body corporate, the Chief Guardian may appoint a guardian *ad litem* as referred to in Chap. 11 of the Children and parents Code to represent the body corporate in matters relating to the expropriation.

If a guardian *ad litem* needs to be appointed as provided in subsection 1, the Government or the authority referred to in Section 1 (2) shall notify the Chief Guardian to this effect.

Section 6. If a summons application is not rejected, the land court, if the application was made by the expropriating party, shall issue a writ of summons to the property owner and other known interested parties. If the application has been made by another party, the court shall issue a writ of summons to the expropriating party and shall summon other known interested parties to enter appearance as parties in the proceedings. Interested parties shall be served with notice in the manner prescribed for writs of summons in civil disputes.

In a writ of summons issued to the expropriating party, he shall be called to supply information in the respects indicated in Section 5 (1), points 3-6.

A writ of summons as referred to in Section 1 shall always be issued to unknown interested parties who may possibly exist. The provisions of the Service of Documents Act (1970:428) concerning service by publication shall then apply, *mutatis mutandis*. If there is justification for assuming that unknown interested parties do not exist, notice as referred to in Section 17 (1) of the same Act may be posted on the premises of the land court instead of being published in a newspaper.

Section 7. The property owner, even if he has not applied for a writ of summons, shall indicate interested parties who are known to him. If he omits without valid cause to do so and damage is incurred by an interested party in consequence of the omission, he shall make good the damage. The real property court shall remind him of this in a writ of summons or a notice or otherwise.

Section 8. If an interested party has been indicated or otherwise become known subsequent to a writ of summons being issued and he has not entered appearance, Section 6 (1) shall apply, *mutatis mutandis*.

Section 9. The expropriating party shall produce a certificate of search for the property unit. If, however, property which is to be expropriated is jointly owned to two or more property units with different owners, a certificate of search need only be produced if requested by the court.

Section 10. If expropriation entails amendment in the division into property units, the expropriating party shall supply the court with two copies of a plan with a description of the area. The plan and the description shall be drawn up by the cadastral authority in compliance, *mutatis mutandis*, with the provisions applying to property formation procedure. A new boundary shall be marked by the cadastral authority in accordance with provisions made concerning boundaries resulting from property formation.

If the expropriation implies the formation or restriction of a right of user or easement, the provision made in subsection one concerning a plan with description shall apply, *mutatis mutandis*.

Section 11. Proceedings in expropriation cases can with legal effect be directed against the party for whom registration of ownership was last granted or applied for, even if that party has transferred the property unit prior to proceedings being filed. The party to whom the property unit has thus been transferred has the same standing in the case as if the transfer had taken place during the judicial proceedings. If a dispute concerning title is entered in the land register section of the Real Property Register, proceedings can be directed against the party possessing the property unit and claiming title.

A new owner may not disturb an agreement entered into by the previous owner or another measure taken in the case and binding upon the previous owner.

Section 12. During the preliminary proceedings, the land court shall endeavour to ensure that the investigation of the case follows a course and is on a scale appropriate to the nature of the case. In doing so, the court shall as far as possible ensure that no

unnecessary investigation material is adduced in the case.

Except where manifestly unnecessary, the land court shall as soon as possible, by special order, inform the parties of the investigation material which, in the court's opinion, should be adduced in the case (an investigation order). If an investigation order has been made concerning a certain part of the case, a new order in the same part may be made only if there is special cause for doing so.

Section 13. Investigation as provided in Section 9 of the Land Courts Act (1969:246) shall be carried out unless it must be assumed that such investigation lacks importance.

Section 14. The court may handle and determine the case unimpeded by the absence of a party.

Section 15. On an expropriation claim being partly or wholly withdrawn, the case shall be struck off in that respect. Withdrawal, however, is of no effect with regard to property which has passed to the expropriating party as indicated in Chap. 6, Section 10. If the question is one of property of which possession has otherwise been taken by the expropriating party, the case shall be tried regardless of the withdrawal if an interested party whose right is affected by the taking of possession so requests. The same applies if an interested party withdraws an expropriation claim and the expropriating party requests that the case be tried.

If the case is partly or wholly struck off due to withdrawal by the expropriating party, the expropriation permit in that respect shall lapse.

Section 16. If damage has been incurred by an interested party due to an expropriation claim which has been withdrawn and the case is struck off in that respect, the expropriating party shall make good the damage.

The foregoing shall also apply when the court determines the case on account of an expropriation permit having been refused or cancelled or a permit having lapsed as indicated in Section 18 (3).

Prior to a case being struck off on account of withdrawal by the expropriating party, he shall, if he has obtained an expropriation permit, deposit security with the County Administrative Board for compensation as referred to in subsection one, unless all interested parties have declared that they refrain from claiming such compensation.

Section 17. If it is of substantial importance to the expropriating party, the court, at the instance of that party, may make an order consenting to possession being taken of property which is to be surrendered by expropriation, regardless of the expropriation not having been completed (simple advance possession). Subject to the same condition, the court, when returning judgement, may consent to such property, prior to the existence of a binding judgement in the matter of expropriation money, passing to the expropriating party with the same title as if the expropriation had been completed (qualified advance possession).

The court, at the instance of the property owner, may order that simple advance possession shall be taken if the expropriating party does not show that taking of possession would entail considerable inconvenience to him.

If it is not obvious that the expropriation money will be insignificant, the court, at the instance of the expropriating party, the property owner or another interested party

whose right is affected by the taking of possession, may prescribe that the expropriating party shall, prior to advance possession, pay an advance on the expropriation money which is finally determined.

The court shall further prescribe that the expropriating party, before taking advance possession, shall deposit security with the County Administrative Board for the final expropriation money, insofar as it exceeds an advance referred to in subsection three, together with the interest which may become payable under Chap. 6, Section 16 (1).

Section 18. In a judgement or order concerning consent to advance possession as provided in Section 17 (1), the court shall indicate when the consent may be utilised at the earliest. The time shall be determined in such a way that the property owner and another party whose right is affected with have a reasonable respite. Consent may not be used before the expropriating party has performed what is prescribed by the court as provided in Section 17 (3) and (4).

The court shall further indicate the time within which, at the latest, the expropriating party shall have performed what the court has prescribed. If the expropriating party has not discharged his obligations within the allotted time, the consent to advance possession will lapse.

In an advance possession order as referred to in Section 17 (2), the court shall indicate when, at the latest, possession is to be taken. The time shall be determined in such a way that the expropriating party and another party whose right is affected with have a reasonable respite. Consent may not be used before the expropriating party has performed what is prescribed by the court as provided in Section 17 (3) and (4). If the expropriating party has not discharged his obligations within the allotted time, the expropriation permit will lapse in that respect.

In the event of simple advance possession, the holder of a special right in the property unit which, as indicated in Chap. 1, Sections 3 and 4, is affected by the expropriation is no longer entitled to exercise the right, insofar as it refers to property included in the advance possession.

Section 19. The land court may ordain that consent to simple advance possession as provided in Section 17 (1) may be utilised regardless of the order for the same not having acquired force of law. Such ordination may be granted only on condition that the expropriating party has deposited with the County Administrative Board security for the damages which may become payable if the court's order is amended.

Section 20. If the expropriating party has taken possession of property which is to be surrendered by expropriation, the court, at the instance of that party, the property owner or another interested party whose right is affected by the taking of possession, may prescribe that an advance is to be paid on the expropriation money finally determined. Such a prescription, however, may not be made if it is obvious that the advance will be insignificant.

If an order in a matter concerning advance payment has been made at the instance of a certain interested party, a new claim by that party to advance payment may not be admitted for adjudication until six months have passed since the previous order acquired force of law.

An advance payment as referred to in subsection one shall be paid within one month of the order concerning it having acquired force of law.

Section 21. Prior to the determination of a question referred to in Sections 17-20, the parties shall be given the opportunity of a hearing. A question of qualified advance possession may be determined without a main hearing.

A question of advance possession may be adjudicated regardless of expropriation money having been finally determined in a certain respect. The question is adjudicated by the judicial instance where the property owner is a party or, if the property owner has been finally dissociated from the case, by the court of lowest instance in which proceedings in any part of the case are pending. The question may be raised without a writ of summons being issued.

Section 22. Any appeal against an order made by a land court during judicial proceedings in a question referred to in Section 17, 18 or 20 shall be made by separate process.

No appeal may be made against a decision by the court of appeal in a question referred to in Sections 17-20.

Section 23. Compensation shall be determined separately for each interested party. Purchase money, encroachment money and other compensation shall be determined separately.

If expropriation refers to the share of all part-owners in a joint property unit or part of the same and if the joint property unit has a known governing body or manager entitled to receive moneys emanating from the joint property unit, the court, subsection one notwithstanding, may determine joint compensation for the part-owners insofar as no reduction is to be made as provided in Chap. 6, Section 1 (1).

Section 24. When a property unit is expropriated, the court shall estimate both the value of the property unit and the value of a special right not left undisturbed. If a special right entails reduction of the value of a property unit which is to be expropriated, the value of the property unit shall be estimated with due regard for the reduction which the right entails in the value of the property unit. If compensation is to be paid to the holder of such a special right and the property unit answers for a mortgage, granted or applied for, with superior title, the court shall also estimate the value of the property unit without the special right.

A special estimate as indicated in point 3 of subsection one is not needed if there is to be no deposition as provided in Chap. 6, Section 1 (1).

Section 25. Compensation may not be determined at a greater amount than has been requested by the party entitled to compensation.

If, however, the property unit is encumbered with a mortgage which has been granted or applied for, purchase money and encroachment money may not be set lower than is occasioned by Chap. 4, except where this is substantially of no importance for the right of the creditors.

If the parties are agreed on the amount of purchase money or encroachment money, the court may make a judgement accordingly if consent has been granted by all creditors having a mortgage lien on the property unit. If the property unit is encumbered with a joint mortgage, consent is also required from property owners and creditors as prescribed in Chap. 22, Section 11 of the Land Code for partial

cancellation. Consent is not required, however, from a party for whose rights the court's decision is substantially of no importance.

The provisions of subsections two and three concerning purchase money and encroachment money do not apply to compensation for the holder of a special right if the right is terminated or restricted without the property unit or part of the property unit being claimed for freehold title, right of user or an easement.

Section 26. Compensation may not be set at a lower amount than has been offered by the expropriating party.

On the court having ordered advance payment by authority of this Act, the final compensation may not be set at an amount lower than the advance payment or payments determined. The aforesaid does not apply to advance payments constituting conditions for advance possession, if the consent to advance possession has lapsed.

Section 27. Compensation shall be determined in money for immediate payment. The court may, however, at the instance of a party, instruct an interested party in special proceedings before the land court to bring an action for compensation for damage or encroachment which cannot appropriately be adjudicated in the case. Such an action shall be brought by summons application within the time, ten years at most, determined by the court.

A claim as referred to in the foregoing may be separately admitted and determined. Appeal against an order in such a matter made during the judicial proceedings is made by separate process.

Section 28. Judgement shall be based on what has emerged in the course of view or other proceedings and on the documents generally.

Section 29

A superior court may, even in derogation of general practice, determine a case without a main hearing if a main hearing will presumably be of no importance and no such proceedings are requested by a party.

Chap. 6. Payment of expropriation money and completion of expropriation etc.

Section 1. Purchase money and encroachment money are paid by deposition with the County Administrative Board in the county where the property unit is situated. If the expropriation money refers to property units in different counties, the deposition shall be made with the County Administrative Board determined by the court.

Subsection one does not apply to compensation for the holder of a special right if the right is terminated or restricted without the property unit or part of the property unit being claimed for freehold title, right of user or easement.

Section 2. Deposition as provided in Section 1 (1) shall not take place if the property unit does not answer for a mortgage granted or applied for or if the creditors having a mortgage lien on the property unit have consented to the compensation being paid to the party entitled to compensation. If the property unit is encumbered by a joint

mortgage, the aforesaid shall apply only if, moreover, there is consent from property owners and creditors as prescribed in Chap. 22, Section 11 of the Land Code for partial cancellation. Consent is not required, however, from a party for whose rights the expropriation is substantially of no importance.

A deposit shall always be made if a guardian *ad litem* as provided in Chap. 11 of the Children and Parents Code has been appointed to represent a dissolved body corporate in matters relating to the expropriation.

Section 3. In connection with the court determining purchase money and encroachment money, it shall indicate the extent to which deposition shall take place.

Section 4. Expropriation money which is not to be deposited is paid to the party entitled to compensation. In such a case it is incumbent on the expropriating party to notify the County Administrative Board of the county where the property unit is situated, and in doing so to substantiate, that the money has been paid. If the money refers to property units in different counties, Section 1 (1), point 2 shall apply, *mutatis mutandis*.

Section 5. The provisions of Sections 1-4 apply, *mutatis mutandis*, to advance payments.

Section 6. In connection with deposition or notification, the expropriating party shall submit to the County Administrative Board the judgement or order and legal validity certificate and also, in the case of deposition, a certificate of search for the property unit. Failing this, the County Administrative Board shall procure the documents at the expense of the expropriating party.

Section 7. Expropriation money shall be deposited and notification effected within three months of the judgement whereby all questions in the matter have been determined acquiring force of law.

If the property unit has wholly or partly been taken possession of or passed to the expropriating party as indicated in Section 10, deposition or notification shall be effected within one month after the judgement whereby the compensation was determined acquired force of law.

Section 8. If expropriation money is not to be paid or the final compensation does not exceed what has been paid in advance, it is incumbent on the expropriating party to notify the County Administrative Board of this fact after all questions in the matter have been finally determined. Notification need not be effected concerning property which has passed to the expropriating party as indicated in Section 10.

Section 9. The expropriation is completed when all questions in the matter have been finally determined and the expropriating party has performed within the allotted time what is incumbent upon him under Section 1 (1) and Section 4. The same applies when the expropriating party has given notice as provided in Section 8. When the expropriation is completed, the expropriating party is entitled to immediate possession of the property.

If a fixture is expropriated with full title, the fixture ceases, after the completion of

the expropriation, to pertain to the property unit, even if it is not detached from the same. Amendment of the division into property units by reason of expropriation takes place when the expropriation is completed.

Section 10. On the expropriating party notifying the County Administrative Board that he wishes to utilise consent to qualified advance possession and showing at the same time that the consent judgement has acquired force of law and that he has fulfilled, within the allotted time, the conditions to which the consent was made subject, the property, through the notification, passes to the expropriating party with the same title as if the expropriation had been completed. If, however, notification is effected before the earliest day on which the consent may be utilised, the property does not pass until the day first mentioned.

When the property has passed to the expropriating party as provided in subsection one, Section 9 (2) applies, *mutatis mutandis*.

Section 11. If the expropriating party neglects to observe within the allotted time what is incumbent upon him as provided in Section 1 (1) and Section 4 and the property unit has not wholly or partly been taken possession of or passed to the expropriating party as provided in Section 10, the right of expropriation is forfeited.

If the property owner wishes the expropriation to be completed nonetheless, he shall make a request to this end to the County Administrative Board within three months of the forfeiture. If he does not wish the expropriation to be completed, it is incumbent on him to satisfy the land court that the right of expropriation is forfeit. If he does so, the court shall give notice of the forfeiture to the land registration authority for note in the land register section of the Real Property Register.

Section 12. If the property owner has requested completion of the expropriation regardless of the right of expropriation being forfeited as provided in Section 11 (1) and notification as provided in subsection two of the same section has not taken place, the County Administrative Board shall arrange for expropriation money and interest as provided in Section 16 (1) to be levied from the expropriating party.

Section 13. If the property unit has been wholly or partly taken possession of or passed to the expropriating party as provided in Section 10 and he neglects to pay, within the allotted time, an advance as provided in Chap. 5, Section 20 or final expropriation money, the County Administrative Board, at the request of the party entitled to compensation, shall arrange for the amount and interest as provided in Section 16 (1) to be collected.

Section 14. A request as referred to in Section 11 (2) or Section 13 shall be accompanied by the judgement or order and a legal validity certificate.

Concerning the levying of compensation and interest, the provisions of the Enforcement Code concerning enforcement of a binding judgement in civil proceedings whereby an obligation of payment has been imposed on a party shall apply, *mutatis mutandis*.

Section 15. If a case exists as referred to in Section 12 or 13 and all questions in the matter have been finally determined, the expropriation is completed when the final

expropriation money has been received by the County Administrative Board.

Section 16. Insofar as expropriation money is paid after the expiry of a time limit as prescribed in Section 7 (1) or (2), the expropriating party shall pay interest on the money from the expiry of the time limit as provided in Section 6 of the Interest Act (1975:635). If advance possession has been taken or the property unit has wholly or partly passed to the expropriating party as indicated in Section 10, the expropriating party shall pay interest on the expropriation money as provided in Section 5 of the Interest Act from the day on which the property unit was taken possession of or passed to the expropriating party and until payment is made or interest shall be payable as provided in point 1 of the said section. If the property unit has only partly been taken possession of or passed to the expropriating party and if the duty in such a case of paying interest on the entire compensation would be oppressive to the expropriating party, the amount of interest may be adjusted.

Expropriation is completed regardless of interest as provided in the foregoing not being paid.

Section 17. Moneys deposited or levied as provided in this chapter shall without delay be paid by the County Administrative Board into an interest-bearing account.

Section 18. Moneys deposited or levied shall, together with accrued interest, be released by the County Administrative Board to the party entitled to the moneys.

In connection with the release of moneys which, as determined by the court, are to be deposited, the provisions on distribution of purchase money for real property sold by executive auction shall apply, with the derogations indicated in subsections three to five. Special provisions apply concerning the right of the holder of a mortgage certificate to waive his right to payment and the effect thereof.

If, in addition to a mortgage, the property unit is encumbered with a special right which reduces the value of the property unit and has lower priority than the mortgage, a creditor having a mortgage lien based on the mortgage shall obtain payment as if the property unit were unencumbered by the right, insofar as this is required in order for him to obtain full payment of his claim. The compensation for the right shall be correspondingly reduced.

If purchase money or encroachment money has been set by the court at an amount higher than has been claimed by the owner of the property and if, after payment of the claims to be settled out of the money, a surplus remains which does not come within the amount claimed, the surplus shall be restored to the expropriating party.

If an administrator has been appointed for a dissolved body corporate, the guardian's remuneration shall be paid out of deposited moneys prior to the settlement of other claims.

Section 19. A meeting for distribution shall be held at the earliest possible opportunity. Notice of the meeting shall be sent at least two weeks in advance to the property owner, any other interested party and known holders of mortgage lien. In the notice they shall be called upon to give notice of their claims not later than the meeting. If there are special reasons for doing so, notice of the meeting shall also be published, at least two weeks in advance, in Post- och Inrikes Tidningar.

Section 20. If, as provided in Chap. 5, Section 27, the court has instructed an interested party to bring an action for compensation for damage or encroachment in separate proceedings, Sections 1-7, 13, 14 and 16-19 shall apply, *mutatis mutandis*, concerning advance payment or compensation determined in such proceedings.

Chap. 7. Special provisions

Section 1. If an expropriation permit has been granted, the expropriating party should bear all expenses which have occurred in the transaction concerning an expropriation permit, in the case before the land court and in the transaction concerning distribution of the expropriation money, all insofar as not otherwise indicated by Chap. 18, Section 6 or 8 of the Code of Judicial Procedure or by implementation, *mutatis mutandis*, of any of these statutory provisions.

If, in proceedings before the land court, an interested party has adduced investigation material contrary to an investigation order, the cost of such investigation shall be reimbursed only insofar as the investigation had a bearing on the outcome of the case.

Section 2. If an expropriation permit application is rejected or if the application is revoked before a permit has been granted, the applicant shall answer for the expenses in the matter, except insofar as otherwise indicated by implementation, *mutatis mutandis*, of Chap. 18, Section 6 or 8 of the Code of Judicial Procedure.

Section 3. In a court of superior instance, the expropriating party shall answer for his own expenses and for expense incurred by an opponent as a result of the expropriating party prosecuting proceedings, except insofar as otherwise indicated by Chap. 18, Section 6 or 8 of the Code of Judicial Procedure. Otherwise Chap. 18 of the Code of Judicial Procedure shall apply concerning liability for costs in a court of superior instance.

Section 4. The question of reimbursement for costs as referred to in Section 1 or 2 is adjudicated by the land court, even if the question does not concern a cost in the court.

Section 5. Pending determination of the expropriation case, the land court may ordain that an advance is to be paid on the reimbursement finally determined for legal costs in the court.

The foregoing shall apply, *mutatis mutandis*, to legal costs incurred by an opponent in a court of superior instance as a result of the expropriating party prosecuting proceedings.

The opponent shall be given the opportunity of a hearing before an order is made for the payment of an advance on legal costs. Any appeal against an order made by the land court in such a question during the trial shall be made by separate process. The order of the court of appeal in the matter is final.

Section 6. On a party wishing, for the purpose of expropriation, to draw up a plan of a property unit owned or possessed by another party or otherwise to investigate the property unit, the County Administrative Board may prescribe that admission to the property unit for such investigation shall be granted during a certain time.

The work of investigation shall be conducted so as to cause a minimum of damage and encroachment. In a garden, suchlike planting or park, trees may not be damaged or felled without the consent of the owner or permission from the County Administrative Board. Compensation is payable for damage and encroachment. Compensation proceedings are filed with the land court in whose area the real property unit is situated.

Section 7. If security which is to be provided under this Act has not been approved by the party in whose favour it is provided, the security is assessed by the County Administrative Board.

A guarantee may be approved by the County Administrative Court only if a guarantor is liable as for a debt of his own and, if two or more persons have issued a guarantee, they are jointly and severally liable.

Security need not be provided by the State, a municipality, a county council or an inter-municipal association.

Section 8. Any appeal against a decision by the County Administrative Board in a question referred to in Section 6 or 7 is made to the Government by appeal.