

# **Real Property Formation Act (SFS 1970:988)**

(with amendments up to and including SFS 2006:41)

## **Part One**

### **Introductory provisions**

#### **Chap. 1**

##### **Section 1**

Property formation is a measure, taken in accordance with this Act, whereby

1. the division into property units is amended,
2. easements are formed, amended or cancelled, or
3. a building or other facility belonging to a real property unit is transmitted to another real property unit.

Through property definition under this Act, questions are decided concerning

1. the nature of current division into property units,
2. the validity and scope of a utility easement or other easement, and
3. whether buildings or other facilities belong to a property as provided in Chap. 2, Section 1 of the Land Code.

##### **Section 1 a**

For the purposes of this Act, the following definitions shall apply:

1. three-dimensional property unit: a property unit which in its entirety is delimited both horizontally and vertically;
2. three-dimensional property space: a space included in a property unit other than a three-dimensional property unit and delimited both horizontally and vertically.

The provisions of this Act concerning land shall also apply to other space included in a real property unit or jointly owned between several property units.

##### **Section 2**

Property units shall be recorded in the general section of the real property register. Provisions concerning the Real Property Register are contained in the Real Property Register Act (2000:224).

Property formation and property definition are completed when an entry concerning the measure in question has been made in the general section of the real property register.

##### **Section 3**

According to this law, a joint property unit is land belonging in common to several property units.

##### **Section 4**

Provisions of this Act concerning land or an area shall also apply where relevant to fisheries not included in the title for the water area and not constituting an easement.

## **Section 5**

More detailed provisions for the implementation of this Act are issued by the Government or by an authority nominated by the Government.

## **Part Two**

### **Property formation in general**

#### **Chap. 2. Basic provisions**

##### **Section 1**

Property formation takes place in the form of reallocation, if it refers to the re-formation of property units, and as subdivision, partition or amalgamation if it refers to the creation of property units.

##### **Section 2**

Questions of property formation are adjudicated by cadastral procedure. The procedure is handled by a cadastral authority. Failing provision to the contrary, a question of property formation is opened following application.

Several property formation measures may be handled conjointly in a cadastral procedure or, if they have begun to be handled conjointly, be divided up between separate procedures.

It follows from Chap. 14 that property definition shall in certain cases be undertaken in conjunction with property formation.

##### **Section 3**

Property formation entailing the amendment of division into property units and affecting a water area also include the fishery if this is included in the title to the area. A decision may, however, be made to the contrary, by authority of Chap. 3, Section 8.

##### **Section 4**

The nature of a fixture following property formation is indicated by the Land Code. A building or other structure which, by order in connection with reallocation, is to be demolished or moved does not, however, constitute a fixture to the property unit on which it is situated.

##### **Section 5**

If an easement or other special right belonging to a property unit is of importance to the property unit only if certain land belongs to it, the right goes with the land if the division into property units is amended. The aforesaid shall not apply if otherwise determined in the course of property formation.

##### **Section 6**

The costs entailed by the effectuation of property formation shall be paid in accordance with the provisions applying to the property formation measure in question. Costs common to separate measures shall be equitably apportioned between them.

If an application is rejected or a cadastral procedure cancelled, the applicant shall pay the accrued costs unless special circumstances occasion the apportionment of liability for payment between all interested parties or certain of them. If the cadastral procedure has been called for by the County Administrative Board pursuant to Chap. 5, Section 3 (4), costs of this kind shall be borne by the State.

An agreement between the interested parties concerning apportionment of the cadastral procedure costs in a different manner from that indicated by this Act shall apply unless it is obvious that the agreement has been made for an improper purpose.

Procedure costs include a set charge, remuneration for an expert and custodian, a charge for field assistance not included in the set charge, and compensation for damage as referred to in Chap. 4, Section 38 (3).

### **Chap. 3. Condition for property formation**

*General suitability and planning conditions.*

#### **Section 1**

Property formation shall be carried out in such a way that every property unit formed or re-formed will, in terms of location, extent and other conditions, be enduringly suited to its purpose. In this regard it shall be especially considered that the property unit is suitably designed and has access to necessary roads outside its area and that a property unit which is to be used for building development can obtain acceptable water supply and sewerage arrangements.

Property formation may not take place if the property unit which is to be formed or re-formed for a new purpose will not presumably be put to lasting use for its purpose within a foreseeable future. Nor may property formation take place if the purpose, having regard to its nature and other circumstances, should be provided for by some other means than property formation.

A three-dimensional property unit or a three-dimensional property space may be formed or re-formed only if it is clear that this measure is more appropriate than other measures for achieving the purpose intended. For the purposes of subsections one and two, account shall be had of the special character of such a property formation. In addition, the provision made in Section 1 a shall apply.

#### **Section 1 a**

Property formation entailing the formation or re-formation of a three-dimensional property unit may take place only if

1. the property unit is intended to contain a building or other facility or part of the same,
2. the property unit is assured of the rights necessary in order for its appropriate use to be possible,
3. it is clear that the measure
  - (a) is justified, having regard to the structure and use of the facility, and
  - (b) is calculated to lead to more appropriate management of the facility or to secure the financing or erection of the facility, and
4. the property unit, if it is intended for housing purposes, is calculated to comprise at least five dwelling units.

Furthermore, in the case of property formation for a facility which has not yet been erected, property formation as provided in subsection one may take place only if

1. it is necessary in order to secure the financing or erection of the facility, and
2. the property unit can be expected to be used for its purpose within the near future.

Subsections one and two shall also apply to property formation whereby a three-dimensional property space is formed or re-formed.

#### **Section 2**

In an area with a detailed development plan, property regulation plan or area regulations, property formation may not take place at variance with the plan or regulations. Minor deviations are permissible, however, if the purpose of the plan or regulations is not frustrated.

If nature conservation regulations or other special provisions for the development or use of land, other than as aforesaid, apply, property formation shall take place in such a way that the purpose of the provisions is not frustrated. If, by virtue of special permission, a building may be erected or some other comparable measure taken at variance with such a provision, the aforesaid shall not impede property formation necessary in order for the permission to be utilised.

Exceptions to the provisions referred to in subsection two may be granted where there is special cause for so doing. Questions concerning exceptions are assessed, at the request of the cadastral authority, by the County Administrative Board or, if the County Administrative Board so ordains, by a municipal authority. It follows from Chap. 7, Section 29 of the Environmental Code that in certain cases this is subject to Government permission.

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 question referred to in subsection three may be contested by appeal to the Government.

### **Section 3**

Within an area to which no detailed development plan applies, property formation may not take place if the measure would impede the appropriate use of the area, occasion unsuitable building development or frustrate suitable planning of the area.

### **Section 4**

If property formation requires the provision of a new exit to a public road or the claiming of an existing exit, property formation may not take place without exceptional reason if substantial inconvenience should thereby be caused to traffic on the road.

### *Special provisions concerning agriculture, forestry and fisheries*

### **Section 5**

In order for an agricultural property unit to be deemed suitable for its purpose, it should be of such size, composition and design as to permit the enterprise to be conducted on the property to yield an acceptable economic return. In the assessment of this matter, consideration shall be had to the possibilities of combining the enterprise with another lasting activity in the locality. Special consideration shall be given to the interest of promoting employment and settlement in a sparsely populated rural area. Consideration shall also be had to the importance of promoting the conservation of the natural and cultural environment.

The foregoing shall also apply to a forestry property unit.

### **Section 6**

Property formation affecting an agricultural property unit may not take place if the measure is calculated to entail some inconvenience of importance for the agricultural activity.

### **Section 7**

Land intended for forestry may not be divided up in such a way that the possibility of economically utilising the forest suffers an impairment of any importance. Nor may property formation affecting such land take place if it implies a harmful division of a forestry property unit.

### **Section 8**

Fisheries may not be divided up through property formation in a manner entailing inconvenience of any importance to fishery conservation. Division may take place, however, if necessary in order to facilitate an otherwise urgently necessary amendment of the division into property units and does not entail any considerable inconvenience to fishery conservation.

If a fishery is included in the title to a water area and if there exists an impediment, as aforesaid, to a property formation measure affecting the area, it may be determined that the property formation shall not include the fishery, if the property formation is of exceptional importance for achieving a suitable division into property units or is otherwise of significant public interest. A provision of this kind may be issued even if the property formation is not of the importance as aforesaid, if the water area is common to several property units.

#### *Exceptional provisions*

##### **Section 9**

Property formation may take place in spite of a property unit formed or re-formed not being enduringly suited for its purpose, if the division into property units is improved and more appropriate division is not frustrated.

##### **Section 10**

If property formation is predominantly beneficial from a public viewpoint, the measure may take place even if it is contrary to the above provisions for the protection of agriculture or forestry.

#### *Property formation across a municipal boundary*

##### **Section 11**

Property formation entailing the alteration of a municipal boundary may only take place if the measure is of substantial importance in order to achieve an appropriate division into property units or if the municipal boundary will be made more suitable.

The consent of the Government or the County Administrative Board shall be obtained for property formation as referred to in the foregoing if the cadastral authority finds that the boundary change can entail an unsuitable division into administrative areas. Consent shall always be obtained if a municipality or parish so requests or the measure entails the transmitting of an entire property unit to another jurisdiction of a common court of first instance.

If property formation is contingent on the grant of permission as referred to in subsection two, the cadastral authority shall give notice of the matter to the County Administrative Board.

#### **Chap. 4. Property formation procedure**

##### *The cadastral authority*

##### **Section 1**

For purposes of property formation procedure, the cadastral authority consists of a cadastral surveyor. Two trustees shall also be included in the authority when this is found necessary by the cadastral surveyor or requested by an interested party and does not entail any unreasonable delay. Trustees shall never take part in the performance of technical tasks.

If the cadastral procedure is of considerable extent, the number of trustees may be increased if this can accelerate the handling procedure. Not more than two trustees, however, may take part simultaneously in the handling of one and the same question.

A decision that trustees are to participate shall not prejudice orders previously made or effectuated during the cadastral procedure.

## **Section 2**

Trustees are elected by the municipal council.

A trustee shall be eligible, within the municipality, as a lay assessor in a district court. A trustee shall have experience of urban conditions or possess a knowledge of agricultural or forestry matters.

A trustee is appointed for four years. If a trustee ceases to be eligible, his appointment shall lapse.

The provisions of the Code of Judicial Procedure concerning the duty of accepting an appointment as lay assessor and retaining the appointment, and also concerning continuing service after discharge, shall apply, *mutatis mutandis*, to a trustee.

The number of trustees is decided by the County Administrative Board.

## **Section 3**

If trustees are to take part, it is incumbent on the cadastral surveyor to summon them to the cadastral procedure. The trustees called to serve should primarily be those possessed of the necessary local knowledge and expertise.

If a trustee is disqualified from serving or absents himself from a meeting and another trustee cannot attend without delay, the cadastral surveyor may call for service as a trustee a person eligible for such an appointment.

## **Section 4**

The provision of Chap. 4, Section 12 of the Code of Judicial Procedure concerning disqualification of persons closely connected with one another from serving simultaneously as judges shall apply, *mutatis mutandis*, to cadastral officers.

## **Section 5**

The same disqualification by prejudice shall apply to a cadastral officer as to a judge.

## **Section 6**

An interested party wishing to challenge a cadastral officer shall present an objection to this effect in his first pleading in the matter after it comes to his knowledge that the cadastral officer is serving and that there is cause for disqualification. If he omits to do so, his right of challenge shall lapse.

After the question of disqualification has been raised against a cadastral officer, he may only take a measure which cannot be deferred without exceptional inconvenience and which does not include the determination of a question of importance for the cadastral procedure. A measure of this kind may be taken by the cadastral surveyor even if he has been declared disqualified.

The fact of a cadastral officer being found disqualified does not affect the validity of an order or measure occurring before the question of disqualification by prejudice was raised.

## **Section 7**

A cadastral procedure shall be handled by the cadastral authority in the locality where the property unit or units affected are situated. If the property units come under more than one cadastral authority, the cadastral procedure shall be handled by one of them.

### **Section 7 a**

If a municipality is an interested party in connection with a cadastral procedure handled by a municipal cadastral authority, the municipality or another interested party may request that the cadastral procedure be conducted by the county cadastral authority instead.

A request of this kind shall be addressed to the cadastral surveyor before the cadastral procedure has been concluded. The cadastral procedure shall then be suspended and the matter transmitted to the county cadastral authority.

The provisions of this section do not apply to cadastral procedures based on contracts of sale, exchange or gift as referred to in Chap. 4 of the Land Code.

#### *Commencement of the cadastral procedure and basic handling principles*

### **Section 8**

Application for property formation shall be made in writing to the cadastral authority. A verbal application made at a cadastral procedure meeting shall, however, be accepted if the question raised can appropriately be adjudicated in the same cadastral procedure.

The applicant shall indicate the measure which he desires and shall indicate the property unit or units which he represents. He shall also indicate the other property units to which the matter refers, as well as the names and mailing addresses of the property owners and the holders of easements, rights of user or electrical power rights which can be affected by the measure, insofar as it is deemed reasonable for the applicant to obtain these particulars or such particulars are available to him in any case.

The application document shall be signed personally by the applicant or his legal representative.

The applicant shall append to the application document the originals or authenticated copies of the written documents in his possession which are material to the matter.

### **Section 9**

If an application does not meet the requirements of Section 8 or is otherwise incomplete, the cadastral authority may order the applicant to remedy the deficiency.

If the cadastral authority has decided that the applicant shall pay an advance on the procedure costs before the application is considered, the applicant may also be ordered to discharge this liability.

### **Section 10**

If the applicant does not comply with an order as referred to in Section 9 (1), the application may be rejected if it is so incomplete that it cannot form the basis of a cadastral procedure. The application may also be rejected if the applicant, or all applicants, as the case may be, has omitted to make an advance payment ordered as provided in Section 9 (2).

An application shall be rejected if there is an impediment to the question raised being adjudicated.

The question of rejection of an application shall be promptly investigated and determined.

### **Section 10 a**

If an application has been made for property formation for building development or for some other purpose requiring permission under Chap. 7 of the Environmental Code, the cadastral authority, acting with the consent of the applicant, may request such permission.

### **Section 11**

The cadastral authority shall investigate, to the extent occasioned by the nature of the property formation and conditions generally, which persons, as owners of a property unit or otherwise, are interested parties. The person having registration of ownership to the property unit shall be deemed the owner unless it is shown that the property unit belongs to another.

The owner of a property unit affected by the cadastral procedure shall, on being requested to do so by the cadastral authority, indicate holders of easements, rights of user and electric power rights known to him. If he omits without valid reason to do so, he shall make good the damage thus caused to the holder.

If it is uncertain which of several persons owns a property unit or is the holder of a right, all of them shall be treated as interested parties. If a property unit has changed hands through an acquisition which has not been completed, both the transferor and the purchaser are interested parties.

If a cadastral procedure concerns a joint property unit administered by a joint property association, the association is interested party instead of the part-owners.

### **Section 12**

If the cadastral procedure concerns a property unit owned by a dissolved company or by another dissolved association, the Chief Guardian may appoint a guardian *ad litem* as referred to in Chap. 11 of the Children and Parents Code to represent the association in the cadastral procedure.

If a guardian *ad litem* as referred to in the foregoing or another guardian *ad litem* as referred to in Chap. 11, Section 3 of the Children and Parents Code needs to be appointed, the cadastral authority shall notify the Chief Guardian to this effect.

### **Section 13**

A cadastral surveyor and a trustee may not be legal representative of or assistant to an interested party at the cadastral authority to which they belong. Nor may a person serve as legal representative or assistant who has had dealings with the matter in his official capacity or as legal representative of or assistant to an interested party with a contrary interest. The same shall apply to a person having a relationship to a cadastral officer as referred to in Chap. 4, Section 12 of the Code of Judicial Procedure.

Otherwise Chap. 12 of the Code of Judicial Procedure shall apply where relevant.

### **Section 14**

In the course of cadastral procedure, the cadastral authority shall hold a meeting of the interested parties.

No meeting is needed if there are no conflicts of interest between interested parties and there is no impediment to the property formation applied for. Nor is a meeting necessary if an application is to be rejected or if it is obvious that the property formation cannot be allowed.

At the meeting, the cadastral authority shall give an account of the application and elucidate the implications of measures taken and planned. Interested parties and any other person who, by special provision, is to be notified of the meeting shall be given an opportunity of speaking and presenting investigation material in matters dealt with at the meeting.

The meeting shall be held at or adjacent to the property unit or units concerned, if it cannot conveniently be held elsewhere.

### **Section 15**

If there is reason to presume that a cadastral procedure can be handled without any meeting at all, an interested party who has not acceded to the application shall be served with the application document and given the opportunity of making a statement on the same within an allotted time.

In cases referred to in Chap. 6, Section 7, and Chap. 7, Section 5 (3), those who are interested parties only by having a share in a joint property unit or being the proprietors of an easement affected need not be served with the application or given the opportunity of making a statement on it.



If a cadastral procedure is conducted without a meeting, the cadastral authority shall notify the municipal committee or committees discharging duties in the planning and building sector if the committee has so requested.

#### **Section 16**

Each cadastral procedure shall be separately minuted.

The minutes and other documents submitted or compiled during the cadastral procedure are gathered into a dossier.

#### **Section 17**

In the event of a difference of opinion between the cadastral officers, the opinion of two of them shall count as the order of the cadastral authority. If each cadastral officer has a different opinion, the opinion of the cadastral surveyor shall apply. In matters concerning money or other things constituting a certain quantity, however, the opinion shall prevail which refers to the second largest quantity.

An order shall contain the reasons for the decision. The reasons may, however, be omitted if explanation can be deemed superfluous. An order made in connection with the conclusion or cancellation of the cadastral procedure and an order which may be appealed by separate process shall also include instructions on appeal procedure.

If an order is made at a meeting, it shall be read out to those present.

#### *Notice and service of documents*

#### **Section 18**

All known interested parties shall be given notice of the first meeting during the cadastral procedure. No notice need be given, however, if it may be presumed that the interested party will attend in any case. If there is reason to suppose that there are unknown interested parties, these too shall be notified of the meeting.

In cases referred to in Chap. 6, Section 7, and Chap. 7, Section 5 (3), those who are interested parties only by reason of having a share in a joint property unit or being the proprietors of an easement affected need not be notified of the meeting. Subsection one shall, however, apply to a party having presented a claim.

The interested parties shall be served with notice well in advance of the meeting.

#### **Section 19**

The provisions of Section 18 shall also apply when a new meeting is fixed. Notice, however, need not be given to unknown interested parties if they have been notified of a meeting earlier during the cadastral procedure.

If an announcement has been made at a meeting of the time and place of the next meeting, no notice need be served to the person duly notified of the meeting at which the announcement was made.

#### **Section 20**

Service of documents shall comply with general provisions concerning the service of documents, unless otherwise provided in this Act.

At a meeting, the cadastral authority, after consulting the interested parties, may decide on a special procedure for the service of documents. Notice shall always be served, however, as provided in subsection one when interested parties are summoned to a meeting for the first time.

#### **Section 21**

If the owner of a property unit or his proxy is permanently residing abroad and service of the document cannot be effected in this country with a known representative, the document may be delivered to the person managing or using the property unit.

It is the duty of the person to whom the document is delivered to forward it without delay to the person sought, if this can be done. He should be given a reminder to this effect when the document is delivered to him. If the whereabouts of the person sought are known, the cadastral authority shall also send him, by mail, notice of the service of documents.

Service shall be deemed to have taken place when the document is delivered as aforesaid.

## **Section 22**

The provisions made concerning service of documents to a part-owner of a joint property unit shall apply, *mutatis mutandis*, to service of documents to a co-owner of a property unit jointly owned by more than ten persons, and to the holder of an easement applying in favour of more than ten property units with different owners.

## **Section 23**

If an interested party has not been duly notified of a meeting, a new meeting shall be fixed unless the interested party has nonetheless appeared or consents to the cadastral procedure still being concluded. In derogation of the aforesaid, a cadastral measure may be taken which does not notably impinge on the interested party's right.

## **Section 24**

On a committee as referred to in Section 15 (3) having so requested, the cadastral authority shall notify the committee of the time and place of a meeting.

### *Continuation and conclusion of the cadastral procedure*

## **Section 25**

The cadastral authority shall investigate the preconditions for the property formation. If there is no impediment to the same, the authority shall draw up the property formation plan and attend to the tasks of a technical nature and evaluations which are needed for the implementation of the measure. The interested parties should be consulted in this connection. Consultations shall if necessary be held with the authorities affected by the measure.

After the measures thus prescribed in subsection one have been taken, the authority shall make a property formation order. This order shall indicate how the division into property units is amended, what easement measures are taken and which buildings or other facilities are transferred to another property unit. The order shall also contain pronouncements in matters immediately connected with the property formation. Special provisions indicating what the order shall contain in certain cases are made in Chaps. 5, 8 and 12. In the case of property formation pursuant to Chap. 3, Section 1 a (2), the cadastral authority shall fix a time within which the facility shall have been erected. The cadastral authority may grant an extension of the time where there is special cause for doing so.

Where appropriate, the property formation order may be made in spite of technical tasks and valuations not having been carried out. Subject to the same condition, various questions relating to the order may be opened and decided separately by special orders. The provisions made concerning property formation orders shall also apply to decisions of this kind.

## **Section 25 a**

If a municipal committee as referred to in Section 15 (3) finds, in consultations under Chap. 4, Section 25, that the permissibility under Chap. 3, Section 3 of property formation for new or existing settlement can be called into question, and if the property formation is permissible from other points of view, the cadastral authority shall refer the matter to the committee for adjudication. If the committee finds that

Chap. 3, Section 3 does not constitute an impediment to the property formation, the committee shall grant permission for the same.

A decision in which the committee has refused permission for the property formation or has made such permission conditional may be contested by appeal to the County Administrative Board. The decision by the County Administrative Board may be contested by appeal to the Government.

Decisions by the committee or a superior instance whereby permission for the property formation has been refused or made conditional are binding on the cadastral authority.

#### **Section 26**

If, having regard to the extent of the cadastral procedure or some other special circumstance, it is appropriate for the question of the permissibility of the property formation to be decided in advance and there is no impediment to the property formation, permission for the same may be granted by special order (a sanctioning order).

If the property formation requires special permission under Chap. 3, Section 11, a sanctioning order may be made regardless of the effect of the measure on the division into administrative areas not having been examined. If permission is not granted, the sanctioning order lapses.

#### **Section 27**

A boundary resulting from the property formation shall be set out and marked to the necessary extent. The course of a set out boundary shall agree with the property formation order. Setting out which deviates to only a minor degree from the order may, however, form the basis of the marking if correction of the setting out would entail expense out of reasonable proportion to the possible importance to an interested party of the property formation being conducted in full agreement with the order.

If appropriate, the marking of a boundary may be effected after the conclusion of the cadastral procedure. The interested party shall be notified in good time of such a measure. The notice is given by written communication or by a special procedure decided on as provided in Section 20 (2).

If setting out and marking as provided in subsections one and two is inappropriate, due to the nature of the property unit, the boundaries shall be described with sufficient accuracy in the plan drawn up pursuant to Section 28 or in other cadastral documents.

#### **Section 28**

A cadastral plan shall be drawn up during the cadastral procedure. No such map need be made, however, if the property formation can be carried out and the results of the cadastral procedure shown without a map. The map shall be made as accurate as the purpose requires.

A description of the alterations to the property boundaries and other conditions resulting from the property formation shall be drawn up unless the result of the cadastral procedure is in any case sufficiently evident from the cadastral documents. In the description, the new boundary shall be indicated in accordance with the setting out of the boundaries or, insofar as setting out is not to take place, in agreement with the property formation order.

#### **Section 29**

After any questions of payment have been settled and all tasks connected with the cadastral procedure have been carried out, the cadastral authority shall declare the cadastral procedure concluded (conclusion order).

#### **Section 30**

After the cadastral procedure has been concluded, the cadastral authority, for as long as an appeal may be made, shall keep available the documents or other information required in order for the interested parties to be able to apprise themselves fully of the result of the cadastral procedure. When an interested party so

requests and when necessary having regard to the nature and extent of the cadastral procedure and other conditions, the authority, for as long as appeal may be made, shall to the necessary extent provide documents for inspection at the place of the cadastral procedure or at a suitable place in the vicinity. The aforesaid shall also apply when an order is made during the cadastral procedure and the order can be separately appealed.

When a property formation order has been made, the authority, at the request of an interested party, shall promptly show the new boundaries on the land, unless it is obvious that such showing would be of no importance to the interested party.

### **Section 31**

If there is an impediment to the property formation, the cadastral authority shall at the earliest possible opportunity suspend the cadastral procedure and make an order for its cancellation. If the impediment can be eliminated by the applicant modifying his claim, he shall be given the opportunity of doing so.

### **Section 32**

If the applicant wishes to withdraw his application to the cadastral authority, he shall do so in writing or else by word of mouth at a meeting. If no other interested party has appeared at the cadastral procedure when the withdrawal takes place, the cadastral procedure shall be cancelled immediately. Otherwise an interested party who has appeared at the cadastral procedure and himself could have applied for the measure shall be notified of the withdrawal. The cadastral procedure shall be cancelled failing request by such an interested party for its continuation. If the interested parties are notified of the withdrawal at a meeting, a request shall be presented at the meeting. Otherwise a request shall be presented within the time allotted by the authority.

On no account shall an application to the cadastral authority be withdrawn after the cadastral procedure has been concluded.

If the applicant absents himself from the first cadastral procedure meeting of which he has been given notice, the application shall be deemed withdrawn unless the applicant has given notice of lawful excuse or it is obvious that he maintains his application.

In matters of subdivision and partition, this section shall only apply insofar as no provision to the contrary is made in Chap. 10, Section 8 or Chap. 11, Section 2.

### **Section 33**

The apportionment of procedure costs shall be decided, at the latest, when the cadastral procedure is concluded or cancelled.

#### **Section 33 a**

Known interested parties shall be notified in writing of orders made in connection with a cadastral procedure having been concluded or cancelled and of orders which may be appealed by separate process. Such notification shall also be given to others entitled to appeal the order. The notification shall contain particulars of the content of the order and of the appeal procedure.

The cadastral authority decides whether notification is to be effected by ordinary letter, by service of documents or by some other means.

In cases referred to in Chap. 6, Section 7, and Chap. 7, Section 5 (3), those who are interested parties only by having a share in a joint property unit or being the proprietors of an easement affected need not be notified. Subsection one shall, however, apply to a party having presented a claim.

*Special provisions*

### **Section 34**

The cadastral authority may appoint a suitable person as expert for the investigation of a question, the assessment of which demands particular specialised knowledge. A person whose relation to the cause or to an interested party is calculated to impair confidence in his impartiality in the matter may not be engaged. The expert shall attend a meeting if this may be presumed of importance for the investigation.

Remuneration for an expert is decided by the authority. If a public official is engaged as expert, remuneration shall only be paid by special prescription.

#### **Section 34 a**

The county cadastral authority may commission another national or municipal authority with competence in the cadastral sector to carry out measures as referred to in Chap. 4, Section 25 (1), 27 and 28.

#### **Section 35**

The cadastral authority may not engage as an interpreter a person to whom such a circumstance applies that his reliability can be deemed impaired.

An interpreter is entitled to receive, out of public funds, reasonable remuneration and reimbursement for expense and loss of time. The aforesaid shall not apply, however, to a person engaged in an official capacity.

#### **Section 36**

A matter of common concern to the interested parties and connected with the cadastral procedure shall be attended to by one or more custodians if a majority of the interested parties present at a meeting so resolve or if the cadastral authority finds that a custodian is needed.

A custodian is elected by the interested parties. If several custodians have been appointed, they shall take joint charge of the assignment failing determination to the contrary. If the custodians are unable to agree, the opinion supported by the cadastral surveyor shall prevail.

A custodian can be relieved of his duties if a majority of the interested parties present at a meeting agree to this effect and the cadastral authority does not find the measure unjustified. If a custodian has been given the task of attending to work referred to in Chap. 9 and does not perform the task satisfactorily, the cadastral authority may relieve the custodian of the task and appoint another person in his stead. The interested parties should be given the opportunity of a hearing before this happens.

If the custodian desires remuneration, he shall request it before the cadastral procedure is concluded or cancelled. If no agreement can be reached, the remuneration will be determined by the authority.

#### **Section 37**

The interested parties shall provide necessary and suitable field assistance for the cadastral procedure unless, by virtue of special provisions, such assistance is to be provided by the community. Field assistance is apportioned between the interested parties according to what is equitable.

If an interested party neglects to provide the field assistance incumbent upon him, the cadastral procedure can be declared dormant pending his completion of his duty. The cadastral authority may, however, attend to the field assistance where appropriate.

If a custodian is appointed to attend to the field assistance, Chap. 9. Sections 3-6 shall apply, *mutatis mutandis*.

#### **Section 38**

The cadastral officers and their assistants are entitled, when the cadastral procedure so demands, to gain admission to a building, to cross land, to carry out measurements and land investigations and to undertake measures connected or comparable with the same. Trees may not be damaged or felled in a

garden or suchlike planting without the owner's consent. Damage shall also be avoided, if possible, in other cases.

The right of crossing land belonging to another also applies to each person appearing at the cadastral procedure.

If damage has occurred through a measure referred to in subsection one or two and the injured party wishes to obtain compensation for the damage, he shall present a claim to this effect before the cadastral procedure is concluded or cancelled.

A police authority shall furnish the enforcement assistance needed for the exercise of a power referred to in subsection one.

### **Section 39**

If it is of exceptional importance for the property formation that a question which is currently being examined in another connection be determined first, the cadastral authority may declare the cadastral procedure dormant pending the determination of the question. An interested party wishing to bring an action for the examination of a question which cannot be determined in the cadastral procedure and the treatment of which by separate process may give cause for the cadastral procedure to be declared dormant, shall be allowed a reasonable respite.

If the cadastral authority has made an order in a question which may be appealed separately, the cadastral procedure shall be dormant in those respects contingent on the final resolution of the question, unless the authority finds that the cadastral procedure can continue without significant inconvenience or the land court orders its continuation.

### **Section 40**

If a property unit has changed hands during the cadastral procedure, the new owner may not disturb what has been consented to or approved by the former owner.

### **Section 41**

If property formation as referred to in Chap. 3, Section 11 occasions the alteration of a municipal or parochial boundary, the cadastral authority shall notify the municipality or parish of the property formation and its effect on the division into administrative areas. The municipality or parish shall be given the opportunity of requesting the obtaining of permission as referred to in Chap. 3, Section 11, if such permission shall not be obtained in any case.

### **Section 42**

Repealed.

## **Part Three**

### **Reallotment**

#### **Chap. 5. General Provisions**

##### *Foundations of reallotment*

#### **Section 1**

Through reallotment,

1. land can be transmitted from one property unit or joint property unit to another such unit,
2. shares in joint property units can be transmitted from one property unit to another,

3. joint property units can be formed,
4. easements can be formed, amended or cancelled, and
5. buildings or other facilities belonging to one property unit can be transmitted to another.

Certain works common to the interested parties may be carried out as part of a reallocation.

### **Section 2**

For land removed from a property unit by transmission, compensation shall be given in land or a share in a joint property unit, unless consideration in money is more appropriate. The aforesaid shall apply, *mutatis mutandis*, to the transmission of a share in a joint property unit, when land is transmitted from a joint property unit and when a joint property unit is formed.

### **Section 3**

Reallocation may be demanded by the owner of a property unit which is affected by it. A joint property association may, by resolution of the association meeting, call for reallocation affecting joint property units administered by the association.

In connection with expropriation or suchlike compulsory purchase, the purchaser may request reallocation whereby the inconvenience caused by the acquisition can be eliminated, reduced or prevented.

The municipality may demand reallocation which is necessary in order for land and water to be appropriately useable for settlement.

The County Administrative Board may demand reallocation which it finds to be of major importance from a public viewpoint.

### **Section 4**

Reallocation may take place provided that more suitable property formation or otherwise more appropriate land use is achieved and the benefits thus gained outweigh the cost and inconvenience which the reallocation entails.

The measure is not permissible, however, if it would substantially impede or add to the expense of a more extensive reallocation which is needed and which can be expected within the near future.

### **Section 5**

Reallocation requested by an interested party may be carried out only if it is necessary in order for a property unit belonging to the applicant to be improved. The requirement of improvement to the property unit does not imply if the reallocation has been requested by a joint property association and affects a joint property unit which is no longer of common importance to the participating property units. Nor does the requirement apply if the reallocation is needed in order to make the property unit agree more closely with a current detailed development plan, property regulation plan or railway plan.

If the reallocation has been demanded by a party other than an interested party or if the application by an interested party implies that the reallocation, if it is not to be subject to an impediment under Section 4 (2), must be made more extensive than is required for the improvement of the applicant's property unit, the reallocation may not take place if the interested parties having a substantial interest in the matter are more generally opposed to the reallocation and have notable reasons for being so. In the examination of such a question, consideration shall above all be had to the opinion of those deriving most benefit from the reallocation.

Subsection two shall not apply if the need for reallocation is exceptionally urgent.

## **Section 6**

Reallotment shall take place to the extent referred to in the application. If the reallotment takes place with a view to achieving a general improvement of the properties within an area, care shall be taken to adjust the reallotment area to pre-existing plans, the nature of the division into property units, natural conditions and existing and intended construction works, so that the greatest possible advantage will be achieved without the cadastral work being unnecessarily impeded.

If the purpose of the reallotment can be achieved through various alternatives, the reallotment shall be effected in the manner occasioning least inconvenience without any unreasonable impairment of profitability or the return generally.

## **Section 7**

Reallotment may not be effected in such a way that land together with a building on the land is transmitted to another property unit or joint property unit. Land on which there is a building belonging to the holder of an easement or a right of user may, however, be transmitted if the owner of a building is assured of a corresponding right of retaining the building on the same land after the reallotment.

Land may be transmitted in derogation of the foregoing, provided no substantial inconvenience is caused to an interested party, if the building is of only negligible value or if the transmission significantly improves the possibilities of achieving an appropriate property formation. In the event of such transmission, the building passes into the hands of the successor, even if it did not belong to the property unit from which the transmission is made.

Land on which there is a high voltage power line for which a concession is required may only be transmitted if the proprietor of the power line is assured of the right of retaining the power line on the same land after the reallotment.

## **Section 8**

In connection with the reallotment, care should be taken to ensure that every property unit included acquires such composition and design that it is no less suitable than before the reallotment for the purpose for which it is intended to be used. The property unit may not be amended in such a way that its grading value is substantially reduced or increased to such an extent as to cause considerable inconvenience to the owner. The aforesaid does not constitute an impediment to an order under Chap. 8 for the property unit or part thereof to be surrendered by compulsory purchase.

### **Section 8 a**

Land which could have been acquired under Chap. 6, Section 17 (1) of the Planning and Building Act (1987:10) may be transmitted by reallotment, the provisions of Sections 7 and 8 notwithstanding. The same applies concerning the cancellation of an easement encumbering such land. Nor do the provisions of Sections 7 and 8 constitute any impediment to the formation of an easement for a public traffic facility referred to in Chap. 14, Section 2 of the Planning and Building Act.

### **Section 8 b**

Land which under the Railway Construction Act (1995:1649) may be compulsory purchased for railway purposes may be transmitted by reallotment, the provisions of Chap. 5, Sections 7 and 8 notwithstanding. The same applies concerning the formation of an easement on such land and the cancellation of an easement encumbering such land.

### **Section 8 c**

If, following reallotment as referred to in Section 8 b, it should not be possible for part of a property unit to be appropriately used together with the rest of the property unit or independently, the part of the property unit shall, on the property owner so requesting, be transmitted through the reallotment to the property unit on which the railway is to be built.



## *Valuation and compensation between interested parties*

### **Section 9**

Special grading values shall be established, to the extent which implementation of a reallocation requires, for the areas included in the reallocation.

The grading value of an area is determined with particular reference to the yield and market value of the area.

The value is based on the nature of the area in its undeveloped state and its serviceability for the purpose for which it should appropriately be used. If, however, the reallocation in any part affects land which should be used for agriculture, all land included in the reallocation may be valued according to the serviceability of the land for agricultural purposes, if there are special reasons for so doing. In the valuation, consideration shall also be had to temporary conditions, unless there are special reasons why the values should be based solely on conditions of an enduring nature. An area intended for forestry is valued as if it were afforested with forest which, having regard to the quality classification of the land, is of a kind normally associated with local conditions.

The grading value of the property unit is the sum total of the grading values of areas belonging to the property unit and shares of the property unit in corresponding values of joint property units.

### **Section 10**

If the value of the land and the shares in joint property units added by reallocation to a property unit do not correspond to the value of what is taken from the property unit through the reallocation, the difference is equalised through compensation in money. A change in value occasioned by an easement measure or by a building or other structure passing to another owner as a result of the reallocation is equalised in the same way.

Compensation as aforesaid is determined on the basis on valuation (reallocation compensation).

### **Section 10 a**

In the evaluation of property under Section 10, the provisions of Chap. 4 of the Expropriation Act (1972:719) are to apply, subject to the exceptions indicated in subsection three.

In the evaluation of property which can be claimed under Chap. 14, Section 1 or 2 of the Planning and Building Act (1987:10) and in evaluation in other cases where it is obvious that the property could instead have been claimed through expropriation or by some other, similar compulsory purchase, the time of increase in property value, for the purposes of Chap. 4, Section 3 (1) of the Expropriation Act, shall be counted from the day ten years before the reallocation was requested.

In the evaluation of property which could not have been claimed as aforesaid, reasonable consideration shall also be had to the special value which the property has to the succeeding property unit. In such cases the provisions of Chap. 4. Sections 2 and 3 of the Expropriation Act, to the effect that, in certain cases, no account is to be had of the increase in property value, shall not apply.

### **Section 10 b**

If, after the reallocation, a right of user or an easement is to continue to apply to land or building in consequence of an order under Section 33 a or Chap. 7, Section 13, the reallocation compensation shall be reduced. The reduction shall correspond to the encumbrance which the right entails to the successor, insofar as reduction can be made without damage being incurred by a party with a claim having priority over the right. If full reduction cannot be made, the compensation to be paid in consequence shall be distributed between the interested parties according to what is equitable, having regard to the benefit derived by each interested party from the reallocation.

### **Section 11**

If the reallocation is conducted in such a way that the owner of a property unit suffers loss due to the value of the property unit being reduced without his being able to obtain indemnification under other provisions, or due to his being required to pay an amount exceeding the increase in value of the property unit, the result of the economic settlement as referred to in Section 10 shall be adjusted in such a way as to cover the loss. If the compensation, calculated as provided in Section 10, for what is taken from the property unit through transmission, substantially exceeds the loss of value which the transmission implies for the property unit, adjustment shall be made if this is equitable, having regard to the circumstances.

If the cost of acquiring property used in the reallocation to reinforce a property unit does not tally with the reallocation compensation, adjustment shall also be made as aforesaid, except where this entails considerable inconvenience to an interested party.

## **Section 12**

If in the course of reallocation damage is incurred by an interested party for which compensation is not paid under Section 10 or 11, that damage shall also be compensated for.

If the holder of a right which reduces the value of the property unit is entitled to compensation under subsection one, the reallocation compensation credited to the owner of the property unit shall be reduced by the amount equalling the reduction entailed by the right in the value of the property unit. If the reallocation compensation cannot be reduced without damage being incurred by the holder of a preferential claim, the compensation to the holder of a right shall instead be reduced by the corresponding amount.

Liability to pay compensation not matched by a reduction of reallocation compensation as referred to in the foregoing is apportioned between the interested parties according to what is reasonable, having regard to the benefit they derive from the reallocation being conducted in such a way that compensation is to be paid.

### **Section 12 a**

On separate claim being made, the cadastral authority may, if it is appropriate, refer an interested party to present a claim, in special cadastral procedure, for compensation for damage and encroachment which is difficult to estimate in connection with the reallocation. Application for special cadastral procedure shall be made within the time, not more than ten years, set by the cadastral authority.

If the reallocation concerns a property unit liable for a payment claim, the cadastral authority may make an order as provided in the foregoing only if the creditor consents thereto. If the property unit is encumbered by a joint mortgage, such consent from property owners and creditors must also be obtained as is prescribed for partial cancellation in Chap. 22, Section 11 of the Land Code. If, however, the order is substantially of no importance to any claim holder, no consent by the same is needed.

### **Section 12 b**

This Act does not apply concerning compensation for damage or encroachment which occurs after the reallocation and could not have been foreseen at the time of it.

### **Section 12 c**

If it is appropriate and the interested parties concerned consent thereto, the cadastral authority may also examine, in the reallocation, a claim presented by an interested party to compensation connected with the reallocation but concerning a legal matter not to be adjudicated under this Act.

In examination as aforesaid, the provisions of Chaps. 4 and 15-18 shall apply. The cost of the examination by the cadastral authority shall be borne jointly and severally by the interested parties concerned. If the interested parties have not agreed otherwise, the cadastral authority, at the instance of any one of them, may order that the cost is to be finally apportioned on the basis indicated in Section 13.

### **Section 13**

The cost of reallocation is paid by the interested parties according to what is equitable, having regard above all to the benefit derived by each interested party from the reallocation.

If it is appropriate, the cost of each particular measure may be separately apportioned. If the measure could have been taken apart from the reallocation and another basis for apportionment of the cost would then have applied, that basis may be applied.

### **Section 14**

If reallocation takes place in connection with expropriation or suchlike compulsory purchase, the purchaser shall be ordered, according to what is equitable, to pay costs as referred to in Section 13 and to compensation as referred to in Section 12, insofar as the reallocation causes inconvenience from the purchase to be eliminated, alleviated or prevented. He can also be made liable to pay the additional cost occasioned by adjustment as referred to in Section 11 in order to prevent a loss being incurred by a property owner.

Before any party is required, pursuant to the foregoing, to pay compensation or a cost, he shall be given the opportunity of stating his opinion in the matter during the cadastral procedure.

### **Section 15**

The cadastral authority shall draw up between the owners of the property units included in the reallocation a settlement showing what is to be received and paid in compensation for each property unit. If a compensation order affects a party other than a property owner, the settlement shall also refer to him. The settlement shall also include a cost referred to in Section 13, if and insofar as this is appropriate and the amount is determined by the cadastral authority or has been finally determined by approval or in some other way.

A payment date is set for an amount payable as aforesaid. If the liability for payment needs to be apportioned over a considerable period, the payment days are adjusted in such a way that at least one-fifth of the amount is paid annually.

If payment is not rendered within the time set as aforesaid, interest on the unpaid amount shall accrue from the payment date as provided in Section 6 of the Interest Act (1975:635). If possession has been taken before the payment date, interest on the compensation shall also accrue as provided in Section 5 of the Interest Act from the possession date and until payment is made or the payment date occurs. If possession has been taken only in part and liability in such a case to pay interest on the full compensation would be oppressive, the amount of interest may be adjusted.

### **Section 16**

If a property unit incurring depreciation through the reallocation or being wholly or partly compulsory purchased is liable for a payment claim, the cadastral authority shall order that such compensation together with interest which, after settlement if such be needed, accrues to the property owner and does not constitute compensation under Section 12 (1), 27 or 30 (3) shall be paid to the authority nominated by the Government. This shall not apply, however, if the holders of all claims for which the property unit is liable have consented to compensation being paid directly to the property owner. If the property unit is encumbered by a joint mortgage, such consent is also required from property owners and creditors as is prescribed for partial cancellation in Chap. 22, Section 11 of the Land Code. If, however, it is substantially of no importance to any claim holder, no consent is required from that party.

Moneys paid in are distributed by the County Administrative Board. In this connection, the provisions concerning the distribution of purchase money for real property sold by executive auction shall apply, *mutatis mutandis*. If, however, moneys have been paid in for a property unit which has been compulsory purchased or otherwise claimed in its entirety in the reallocation, the holder of a claim which, without title registration, carries a right to payment out of the property unit, is entitled, for the capital value of an amount which has been determined but has not yet fallen due for payment, to obtain a dividend with the

same right as for the rest of the claim. The capital value is computed according to an interest rate of five per cent annually. A meeting for distribution shall be held as soon as possible. Notice of the meeting shall be sent to the claim holders at least two weeks in advance.

The cadastral authority may also order in a case other than referred to in the foregoing that in-payments and out-payments of amounts payable by reason of the reallocation shall be made through an agency of the authority. Further provisions on this subject are issued by the Government.

If moneys are to be paid into an authority by reason of the provisions of this section, it is incumbent on the authority to take the necessary measures to collect the moneys from the party from whom payment is due.

### **Section 17**

If joint property units managed by a joint property association is affected by a cadastral procedure, the association shall pay compensation for land added to the joint property unit and shall receive compensation for land taken from it. The same applies to compensation by reason of an easement being formed, amended or cancelled.

If the joint property unit is managed by a governing body or an administrator empowered to receive moneys accruing to the joint property unit, the compensation shall be paid to the governing body or the administrator unless a part-owner requests that the compensation payable for his share be paid to him. Only if such a request is made shall the cadastral authority in the compensation order indicate each part-owner's share.

Compensation which, under Section 16 (1) is to be paid into an authority shall be deducted before payment is made to a joint property association, a governing body or an administrator.

*Agreement between interested parties etc.*

### **Section 18**

Derogation from the provisions of this chapter specified below is permissible, for the protection of an individual interest, in the following respects:

1. Section 4 (1) and Section 5 (1), if the owners of the property units affected by the reallocation allow it.
2. Section 6 (2), Sections 7 and 10-12 and Section 15 (3), if the interested parties whose rights depend on the measure consent thereto.
3. Section 8, if the owner of the property and, in the event of the property being held in site leasehold, the site lessee allow it.
4. Sections 13 and 14, if the party required to pay more than he would otherwise have been liable to pay allows it and if the derogation from the provisions is not made for an improper purpose.

If the reallocation concerns a property unit liable for a payment claim, derogation from Sections 10-14 by consent of the owner may take place only if the holder of the claim also allows it. If the property unit is encumbered by a joint mortgage, the permission from property owner and creditor prescribed in Chap. 22, Section 11 of the Land Code for partial cancellation is also required. Permission from a claim holder is not required if the reallocation is substantially of no importance to him.

Permission by an owner and site lessee, as referred to in subsection one, point 3, to reduction of the grading value of a property unit shall be given in writing. The right of granting such permission shall be subject to the same conditions as apply to the transfer of real property. Such consent by a cohabitee as is referred to in Section 33 of the Cohabitees (Joint Home) Act (2003:376) is, however, required only if a

matter concerning a note in the land register section of the real property register of notification pursuant to Section 5 (2) of the same Act was entered on the registration day when the consent was given.

Permission or consent as aforesaid to a measure affecting joint property units shall, if the joint property unit is managed by a joint property association, be given by the association instead of by the part-owners.

### **Section 19**

If the reallocation concerns a property unit which has been granted in site leasehold, Section 16 shall apply concerning compensation payable to the site lessee and Section 12 a (2) and Section 18 (2) concerning a claim on the site leasehold.

### **Section 20**

If the grading value of a property unit is increased by application of Section 18 (3), point 3, restrictions imposed by law or other statutory instrument on the right to acquire real property shall apply, *mutatis mutandis*. Should a permit or other examination by a public authority be required for acquisition by purchase, the question of a permit for the increase shall be referred to the authority.

#### *Restrictions on the right to use the property*

### **Section 21**

The cadastral authority may ordain that felling of timber or the extraction of soil, gravel or sand may not be undertaken or that a measure of such a kind shall be subject to special conditions determined by the authority.

An order as aforesaid may be made only if it can be feared that the reallocation will otherwise be substantially impeded or that incorrect compensation payments will be set.

### **Section 22**

If necessary in order to facilitate the cadastral procedure and safeguard its results, the cadastral authority may prohibit the erection, enlargement, alteration or reinstatement of buildings without the authority's permission. Such permission may be refused only if the measure substantially impedes the reallocation.

### **Section 23**

If an order as referred to in Section 21 or 22 has been announced at a meeting, it shall apply immediately. If the order is otherwise made, it shall apply in relation to each individual appraised of it.

The order shall be cancelled when its purpose has lapsed. If the order has not been cancelled, it remains in force until questions of compensation concerning the land affected by the order are finally determined. Insofar as the order includes land which is to be transmitted, the prohibition will instead cease to apply on the taking of possession.

#### *Demolition and removal of a building*

### **Section 24**

An order for the demolition of a building may be made if the possibilities of achieving an appropriate division into property units are substantially improved thereby and the building is unnecessary to the property unit to which it belongs. If the value of the building is negligible, such an order may be made if an appropriate division into property units is promoted by the demolition of the building. Demolition may not be ordered if substantial inconvenience is caused to an interested party.

If a building is demolished, the owner is entitled to compensation corresponding to the value of the building to him. Otherwise Section 12 shall apply, *mutatis mutandis*, to cases of the kind here referred to. Liability for compensation is apportioned on the same basis as prescribed for the cost referred to in Section 13.

Subject to consent by the interested parties whose rights are affected, the provisions of subsections one and two may be set aside, within the limits indicated by Sections 18 (2) and 19.

### **Section 25**

An order for the removal of a building or other structure may be made if the removal substantially improves the possibilities of achieving an appropriate division into property units and the advantages outweigh the cost and inconvenience associated with the removal. Removal may not be ordered, however, if substantial inconvenience is caused to an interested party.

If a building has been erected contrary to an order referred to in Section 22, an order for the removal of the building may be made regardless of the cost and inconvenience occurring to an interested party. The same applies to a building reinstated contrary to such an order, insofar as the owner, by virtue of subsection one, could have been ordered to remove the building if the reinstatement had not occurred.

Removal of a building or other structure may be ordered in other cases at the request of the owner, if the removal is of importance to him.

### **Section 26**

In a removal order it shall be indicated when the removal shall be completed.

Removal may be carried out as common work under Chapter 9 if the owner so requests before the cadastral procedure has been concluded or if it is otherwise suitable.

### **Section 27**

The owner of a building or other structure which is removed is entitled to compensation for the expense which it is estimated that the removal will cause him.

If the building is in such condition that rebuilding or improvement is needed, the removal compensation shall be adjusted. Adjustment shall also take place if an offer exists for the acquisition of the building at a certain price and it is more advantageous to sell the building in accordance with the offer and erect a new building than to move the old building or if it is evident from the circumstances that the owner will not re-erect it.

Liability for compensation is apportioned on the same grounds as are prescribed concerning the cost referred to in Section 13. The cadastral authority may order that compensation shall not be included in a settlement as referred to in Section 15. In such an order it shall be indicated when the compensation shall be paid. The cadastral authority may prescribe that a reasonable portion of the compensation shall not be paid until after the removal has been carried out. If the owner of the building neglects to carry out the removal within the set time, his claim to a compensation payment concerning which a prescription of this kind has been issued shall lapse.

### **Section 28**

If removal of a building has been ordered by authority of Section 25 (2), the owner is not entitled to compensation for the removal costs. However, in the case of a building reinstated without permission while reallocation is in progress, compensation determined according to the state of the building before its reinstatement shall be paid.

In the apportionment of liability to pay compensation for removal as referred to in Section 25 (3), no party other than the owner may be charged a greater amount of compensation than corresponds to the benefit to him.

If the interested parties whose rights are affected conclude an agreement on the amount of removal compensation or concerning apportionment of liability for compensation, that agreement shall apply, with respect to a property unit whose owner is to pay compensation, subject to the limitation indicated by Section 18 (2) and 19.

### **Section 29**

A demolition or removal order is entered in the property formation order. The same applies to a compensation order under Section 27.

#### *Taking possession*

### **Section 30**

Possession is taken at the time determined by the cadastral authority. The property formation order shall have acquired force of law before possession is taken. Failing special reason to the contrary, the taking of possession may not be set at a point in time later than one year from the entry of the reallocation in the general section of the real property register. In a possession order, a proviso shall be made for the right which may be vested in a tenant under Chap. 7, Section 29 (2) of the Land Code.

If no provision has been made concerning possession, possession shall be taken when the reallocation has been entered in the general section of the real property register.

If possession is not taken simultaneously with regard to all property included in the reallocation and, in consequence, substantial inconvenience occurs to an interested party, the latter is entitled to reasonable compensation. The compensation shall be paid by the party deriving benefit from possession not being taken simultaneously. The question of compensation is raised only if a claim is presented.

If possession has been taken and it is not manifest that the compensation which the party taking possession has to pay by reason of the property formation order will be insignificant, the cadastral authority, at the instance of the party taking possession, the property owner or another party affected by the taking of possession, may prescribe that the party taking possession shall pay an advance on the compensation finally determined. If an advance has been determined, the final compensation may not be determined at an amount less than the advance.

#### **Section 30 a**

If appropriate by reason of special circumstances, the cadastral authority may permit possession to be taken regardless of the property formation order not having acquired force of law (advance possession). An advance possession order may be made before the conclusion of the cadastral procedure only if the property formation order may be appealed by separate process.

If it is not manifest that the compensation which the party taking possession has to pay by reason of the property formation order will be insignificant, the cadastral authority, at the instance of the party taking possession, the property owner or another party affected by the taking of possession, may prescribe that the party taking possession shall pay an advance on the compensation finally determined. The cadastral authority shall further prescribe that the party taking possession shall deposit security with the County Administrative Board for the additional compensation, with interest, which may come to be set and for the damages which may come to be payable if the property formation order or possession order is amended. Concerning such security, Chap. 7, Sections 7 and 8 of the Expropriation Act (1972:719) shall apply, *mutatis mutandis*.

The cadastral authority shall indicate the time within which the party taking possession shall have discharged what has been prescribed by the cadastral authority. If the obligations have not been discharged within the allotted time, the permission shall lapse. Permission for advance possession may be utilised when the obligations have discharged, even if the advance possession order has not acquired force of law.

If an advance payment has been determined under this Section, the final compensation may not be set at an amount less than the advance payment. This, however, applies only if possession has been taken or if the advance has been paid in any case.

**Section 30 b**

If land transmitted through reallocation is encumbered by a right of user, an easement or a right to electric power and, under Chap. 7, Section 29 of the Land Code, the right cannot be asserted against the party taking possession, the right shall cease at the point in time applying, under Section 30 or 30 a for taking of possession or at a later point in time prescribed by the cadastral authority. If, however, the right consists of an agricultural lease, the lessee's duty to vacate the land occurs, at the earliest, on the moving day first occurring after six months from the lessee being notified of the reallocation having been requested.

**Section 31**

The party surrendering land may retain for one year a building or other structure which is to be moved and a depot. If there are growing crops in a field of which possession is taken, the vacating party may harvest the crops.

Subsection one shall apply except where otherwise determined by the cadastral authority.

If implementation of the reallocation is facilitated thereby, the party surrendering afforested land may be entitled, for a period of not more than five years from the entry of the reallocation in the general section of the real property register, to extract marked timber on the land to a specified value. If, by reason of a circumstance over which the surrendering party has no control, he is impeded from availing himself of the timber within the allotted time, the owner of the land shall pay compensation in money for what cannot be extracted. If no action for such compensation is brought within a year of the time expiring, the right of action shall lapse.

**Section 32**

If a party refuses without cause to surrender land or a building in time, the succeeding party shall be entitled to obtain enforcement assistance from the Swedish Enforcement Authority in order to acquire possession of the property.

*Right of user etc.*

**Section 33**

If the exercise of a right of user is limited by the right of user agreement to a certain area and the latter is partly or wholly transmitted to another property unit or to a joint property unit, the cadastral authority, if an interested party so requests and the measure is appropriate, shall determine a new area for the exercise of the right of user on the land which, following the reallocation, belongs to the property unit in which the right of user was granted.

**Section 33 a**

If a right of user subsists in land or a building which is transmitted by reallocation to another property unit, the cadastral authority shall order that the right of user shall continue to subsist in the property transmitted, if an interested party so requests and the measure is suitable and does not frustrate the purpose of the reallocation. If a leasehold is combined by law with the right of renewal, an order to this effect shall be made at the instance of the lessee if the latter shows notable cause for continuing leasehold tenure and the measure does not substantially frustrate the purpose of the reallocation.

An order as aforesaid implies that the grant, as regards the property transmitted, can be asserted against the party taking possession as if he had acquired it through a transfer made subject to a proviso concerning the grant. The cadastral authority, however, may prescribe such adjustment of the conditions of grant as is necessary. An order as referred to in the foregoing may be made without the usufructuary having been consulted if it is manifest that the measure is not inconvenient to him and if it is also found in other respects unnecessary to consult him.



An order as referred to in subsection one shall be declared in the property formation order. If the right of user is entered in the land register section of the real property register, notice of the order shall be given to the land registration authority when the property formation order has acquired force of law.

#### **Section 34**

If a right of user or a right to electric power is affected by reallocation, the holder of the right is an interested party in the cadastral procedure if the reallocation is of importance to him.

#### **Section 34 a**

The cadastral authority may prescribe that a right of user created through expropriation or some other suchlike procedure shall cease, if it is obvious that the right of user is no longer needed and its termination is of importance for the reallocation. In other cases such amendment to the conditions of the right of user may be prescribed as is needed, having regard to the purpose of the property formation, always provided that the purpose of the right of user is not frustrated in consequence.

#### *Liability provision*

#### **Section 35**

A party deliberately infringing an order made by authority of Section 21 shall be fined or sentenced to not more than six months' imprisonment.

#### *Enforcement of a compensation order by the property formation authority*

#### **Section 36**

An order by the cadastral authority, pursuant to the provisions of this Chapter, to order a party to pay compensation to an interested party may be enforced as provided in the Enforcement Code.

### **Chap. 6. Special provisions concerning joint property units**

#### **Section 1**

A joint property unit may be formed for a purpose of enduring importance for several property units if the purpose cannot be better provided for in another way.

A joint property unit may not be formed for property units other than those for which it is of substantial importance to have a share in the joint property unit.

The share of a property unit in a joint property unit shall be determined according to what, having regard to the circumstances, is appropriate and equitable.

This Section does not apply to joint property formation of the kind referred to in Section 2, 2 a or 4.

#### **Section 2**

If forest land is divided in such a way that satisfactory utilisation of the forest is substantially impeded, a joint property unit for forestry purposes (joint forest unit) may be formed of the forest land if the need for improved property formation cannot be provided for in any other way. Land of a property unit may, however, be included in joint forest unit only if the land is substantially of no importance for the property unit's need of forest products and the joint forest unit acquires such proportions and structure as to permit economically satisfactory forestry operations.

If forestry land is included in reallocation for the purpose indicated in Chap. 8, Section 1, the land may be designated joint forest unit if this augments the possibilities of utilising the forest and the land does not belong to a property unit for agriculture or such a property unit for forestry which permits economically satisfactory forestry operations.

The share of a property unit in a joint forest unit shall be determined according to the grading value of the land which the property unit surrenders. Minor adjustment can be made to the participatory share if it is appropriate to do so.

#### **Section 2 a**

Special joint property units may be formed of land included in the area for a joint land development unit under the Joint Land Development Act (1987:11), if necessary for the implementation of such joint development. The share of a property unit in the joint property unit shall then correspond to its participatory share in the joint land development unit as provided in Section 11 (2) of the said Act.

#### **Section 3**

Derogation of Section 1 (2) is possible by agreement between the owners of the property units which are to participate in the joint property unit.

With the consent of the property owner, land may be designated as joint forest unit, even if the conditions of Section 2 (1) and (2) are not satisfied. Derogation of Section 2 (3) is possible if the owners of the property units affected consent thereto.

#### **Section 4**

A joint property unit may be divided into new joint property units if there is special cause for doing so. Participation in the new joint property units is determined according to what, having regard to the circumstances, is appropriate and equitable.

#### **Section 5**

The provisions of Sections 1-3 shall apply, *mutatis mutandis*, when the question arises of transmission land to a joint property unit in exchange for a share in the joint property unit or otherwise transmitting a share in the joint property unit. An agreement for the transmission of a share in a joint property unit as referred to in Section 1 need not, however, be acceded to by a part-owner whose participatory share is unaffected by the measure.

#### **Section 6**

If land is transmitted from a joint property unit or an easement granted or amended in a joint property unit, compensation is payable only to part-owners who have presented a claim to this end during the cadastral procedure. Compensation for a part-owner shall, however, be fixed without presentation of a claim when it will presumably exceed three per cent of the basic amount, as defined in the National Insurance Act (1962:381), applying for the year before the cadastral procedure was begun. Compensation shall always be set without presentation of claim when the joint property unit is managed by a joint property association or when compensation is otherwise payable, under Chap. 5, Section 17 (2), to a party representing the part-owners.

#### **Section 7**

If a joint property unit is not used by part-owners for a common purpose and it is obvious that compensation as referred to in Section 6 does not need to be set without presentation of claim, notice of the application for cadastral procedure may be given to one or more of the part-owners who are not interested parties in the cadastral procedure on other grounds. In such cases, a property formation order may be made and the cadastral procedure concluded without all part-owners of the joint property unit having been given the opportunity of a hearing in the cadastral procedure.

### **Chap. 7. Special provisions on easements, utility easements and transmission of property fixtures**

#### **Section 1**

An easement formed by reallocation shall be of substantial importance for the appropriate use of the property unit. In the making of this assessment, no consideration shall be had to a right based on a voluntary grant.

If unsupported by an agreement between the owner of the dominant property unit and the owner of the servient property unit, the easement may not include an obligation on the part of the latter to maintain a road, building or other structure referred to in the easement. An easement may not be formed for a fixed term or made conditional. It may, however, be determined that an easement shall apply only for as long as the purpose is not provided for in another, specified manner.

The foregoing and Chap. 5, Section 8 shall not apply to the formation of an easement concerning which provision has been made in a property regulation plan.

## **Section 2**

An easement regarding forest produce or a utility or other device according to the Utility Easements Act (1973:1144) may not be granted through reallocation.

An easement which concerns a water enterprise and can be granted under Chap. 28, Section 10 of the Environmental Code can be formed by reallocation only if permission for the enterprise has been granted under the Water Act (1983:291) or the Environmental Code or if it is obvious that neither public nor private interest will be harmed by the effect of the enterprise on water conditions. No other water enterprise easements which can be granted under the Environmental Code may be formed by reallocation.

Easements which can be granted following examination by special cadastral procedure in cases other than those referred to in subsections one and two may be formed through reallocation only if the measure takes place in conjunction with another property formation measure and is of importance for the latter.

## **Section 3**

Amendment of an easement by reallocation may take the form of restriction, relocation or other amendment of the area in which the easement is exercised and the making of new or altered provisions, occasioned thereby, concerning its exercise. The encumbrance entailed by the easement, however, may not be notably increased or diminished.

Cancellation of an easement by reallocation may be limited to a certain power included in the easement, if this can be done without jeopardising the rest of the easement.

## **Section 4**

In order for amendment of an easement to be permissible, the easement must prevent appropriate use of the servient property unit or its use in accordance with a detailed development plan, a property regulation plan or area regulations, and elimination of this inconvenience must be possible by means of the amendment.

If conditions have changed since the easement was created, the easement may be amended if this will involve a substantial advantage to the servient or dominant property without causing any inconvenience of importance to the other property.

## **Section 5**

If, in cases referred to in Section 4 (1), the inconvenience cannot be eliminated by amendment, the easement may be cancelled.

An easement may also be cancelled if, as a consequence of changed conditions, the easement is not needed for the dominant property or the benefit of the easement is slight by comparison with the burden on the servient property. The same applies if the easement has not been used for a considerable time and circumstances generally are of such a kind that it must be deemed to have been abandoned.

If it is obvious that an easement is abandoned and that cancellation of the easement will not reduce the value of the dominant property, the easement may be cancelled without the owner of that property

having been given the opportunity of a hearing in the cadastral procedure. The cadastral authority, however, shall always send notice of the cadastral procedure application to an owner having a known postal address.

#### **Section 6**

The special conditions prescribed in Sections 4 and 5 shall not apply to the amendment or cancellation of an easement in connection with reallocation concerned with amendment of the division into property units, if the measure is of importance for the reallocation.

Sections 4 and 5 and Chap. 5, Section 8 do not apply to the amendment or cancellation of easements concerning which provision has been made in a property regulation plan.

#### **Section 7**

In connection with the formation of an easement by reallocation, an easement which already exists and cannot be exercised concurrently with the new easement may be amended or cancelled even if this would not be permissible under Sections 4-6.

#### **Section 8**

Subject to agreement between the owners of the dominant and servient property units, an easement may be amended or cancelled by reallocation in derogation of Sections 4-7.

#### **Section 9**

An easement created in favour of a water enterprise by authority of Chap. 28, Section 10 of the Environmental Code or corresponding earlier provisions may be amended or cancelled only if the measure does not entail any significant inconvenience to the enterprise. No other easements created by authority of the rules of the Environmental Code concerning water enterprises or under corresponding earlier legislation may be amended or cancelled by reallocation.

Easements created under legislation concerning trespass prevention or private roads or under the Joint Facilities Act (1973:1149) or corresponding earlier legislation, may be amended or cancelled by reallocation only if the measure is taken in connection with another property formation measure and is of importance to the latter.

#### **Section 10**

An easement may be formed, amended or cancelled without special application if the measure is of importance for another reallocation measure and is undertaken in connection with the same.

#### **Section 11**

If the question of forming, amending or cancelling a utility easement arises in connection with reallocation, the cadastral authority may order examination of the question under the Utility Easements Act (1973:1144).

#### **Section 12**

When land is transmitted from a property unit to which an easement or some other special right belongs, the cadastral authority may order that the right shall belong to both the property units affected by the reallocation or to one of them only. If no order is made, Chap. 2, Section 5 shall apply.

#### **Section 13**

The provision made in Chap. 5, Section 33 a concerning a right of user shall also apply to an easement granted by agreement.

#### **Section 14**

The cadastral authority may order that buildings or other facilities which, under Chap. 2, Section 1 of the Land Code, belong to a property unit and are suited for permanent use in the exercise of an easement under this Act or corresponding earlier provisions be transmitted to the dominant property

unit. Through this order the title in the building or facility passes to the owner of the dominant property unit.

A building, however, may be transmitted only if

1. no substantial inconvenience is caused to any other interested party and
2. the value of the building is negligible or the transmission significantly improves the possibilities of achieving appropriate land use.

Derogation from subsection two is possible, if the interested parties whose rights are affected by the measure consent thereto.

## **Chap. 8. Special provisions on compulsory purchase**

### **Section 1**

If it is the purpose of reallocation to achieve a general improvement of the division into property units within an area which comprises land belonging to several property units with different owners and if it is a matter of substantial interest from a public point of view that changes of size should be effected thereby, the cadastral authority may order that a property unit included in the reallocation or part of such a property unit shall be relinquished by compulsory purchase for transmission to another property unit. Compulsory purchase is subject to the restrictions prescribed in Sections 2 and 3.

### **Section 2**

Compulsory purchase may not take place if the purpose of the transmission can be reasonably accomplished by other means.

No part of a property unit may be subjected to compulsory purchase if the property unit meets the requirements of suitability defined in Chap. 3. Nor may land included in or intended for inclusion in a joint forest unit be made a subject of compulsory purchase.

If, subsequent to the reallocation, it should prove impossible for part of a property unit to be used together with the other lands of the property unit and it cannot be advantageously used on its own, compulsory purchase of that part of the property unit may take place, even if the property unit meets the suitability requirements of Chap. 3.

### **Section 3**

Compulsory purchase may not take place if considerable inconvenience would thereby be caused to the owner or user of the property unit. In assessing whether such inconvenience would arise, no consideration may be had to an arrangement made for the purpose of preventing compulsory purchase.

### **Section 4**

If areas which, according to a property regulation plan, are to form one property unit have different owners, the owner of such an area may, on request, purchase the remainder of the prospective property unit, in derogation of the restrictions on compulsory purchase indicated by Chap. 5, Section 7 and by Sections 1-3 of this Chapter. If purchase is claimed by more than one party, the party whose area is estimated to have the greatest value shall take precedence. If equal values are put on the areas, the party first claiming purchase shall take precedence. If amendments are made simultaneously to the division into property units as provided in Chap. 5, these amendments shall be taken into consideration in the estimate.

### **Section 5**

The provisions of this Section shall apply when

1. different parts of a building or other facility belong to separate property units,

2. at least part of the facility belongs to a three-dimensional property unit or a three-dimensional property space, and

3. the facility or a part thereof as referred to in paragraph 2 is damaged or worn to such an extent that it must be replaced with a new one in order for its purpose to be served and this circumstance substantially impedes appropriate use of an adjoining property unit.

In case referred to in subsection one, the owner of one of the property units referred to in subsection one, paragraph 1 may on request purchase the three-dimensional property units and three-dimensional property spaces compulsory to which the facility or part-facility belongs. If several property owners request to purchase, the purchase shall be made in the manner conducive to the most appropriate property subdivision. If several purchasing options are equally suitable, priority shall be given to the property owner whose part of the facility can be estimated to be of the highest value, or, if several parts are estimated to be of equal value, to the property owner first requesting to purchase. If at the same time amendments are made, pursuant to Chap. 5, to the property subdivision, these shall be taken into account in the estimate.

If conditions as provided in subsection one are satisfied but no purchase under subsection two takes place, the cadastral authority shall order the three-dimensional property units and three-dimensional property spaces to which the facility or part-facility belongs to be surrendered through compulsory purchase and transmitted to the property unit to which they would have belonged if no three-dimensional property units or three-dimensional property spaces had been formed.

Purchase as provided in subsection two or three may not take place if there is a presumption of the three-dimensional property unit or the three-dimensional property space continuing to be used for its purpose within the near future.

#### **Section 6**

If a facility belonging in its entirety to a three-dimensional property unit or a three-dimensional property space is damaged or worn to such an extent that it must be replaced with a new one in order for its purpose to be served and this circumstance substantially impedes appropriate use of an adjoining property unit, Section 5 (3) and (4) shall apply.

#### **Section 7**

The provisions of Section 5 (2)-(4) and Section 6 also apply if the facility has not been erected within the time appointed as provided in Chap. 4, Section 25 (2).

#### **Section 8**

Compulsory purchase as provided in sections 5-7 may take place in derogation of the provisions of Chap. 3, Section 2, Chap. 5, Section 7 and Sections 1-3 of this Chapter.

#### **Section 9**

If compulsory purchase, pursuant to Sections 5-7, of part of a property unit would have the consequence that a remaining part of the property unit could not longer be used for its purpose, purchase may take place only if this part is also purchased.

#### **Section 10**

On the question of compulsory purchase of a property unit or part thereof arising, the owner and other interested parties affected shall be served with notice to this effect before the question is finally discussed, and notice shall be given to the land registration authority to be noted in the land register section of the real property register. Service may not be effected by special procedure of the kind decided as provided in Chap. 4, Section 20 (2).

A compulsory purchase order shall be included in the property formation order.

## **Chap. 9. Special provisions on common works**

### **Section 1**

Construction work or a suchlike measure shall, by order of the cadastral authority, be effected during the cadastral procedure and as a common work undertaken by the interested parties under this Act if it promotes the purpose of the reallocation and it would not be more suitable for the work to be attended to by an individual interested party.

An order as aforesaid may not refer to an enterprise which would substantially alter the nature and extent of the reallocation. Nor may the order refer to water enterprises, other than

1. agricultural land drainage enterprises for which no permit is required under Chap. 11, Section 13 of the Environmental Code, and
2. other land drainage enterprises, the impact of which on water conditions is manifestly incapable of harming interests whether public or private.

If, in consequence of the foregoing, a water enterprise or other enterprise cannot be undertaken as a common work under this Act or if such undertaking is unsuitable, the cadastral authority may order examination under the Environmental Code and the Water Enterprises (Special Provisions) Act (1998:812) or the Joint Facilities Act.

### **Section 2**

Common work is attended to by the interested parties as agreed between themselves. If, however, an interested party so requests or the cadastral authority finds it necessary, the work and what is connected with it may be attended to by one or more custodians.

### **Section 3**

If a custodian has been appointed to attend to common work, the cadastral authority decides, if necessary, how the cost of the enterprise is to be apportioned pending final determination of the cost apportionment. It is the duty of the interested parties to advance, in accordance with the order, the funds needed for the custodian's activity, on the basis of a debit list drawn up by the custodian.

The debit list shall indicate the amount charged, the amount payable by each interested party and the point in time when payment is to be made. The list shall be presented for inspection at a cadastral procedure meeting.

### **Section 4**

An interested party who is dissatisfied with the charge levied may request correction from the cadastral authority. A request for correction shall be presented at the meeting at which the list is presented for inspection.

Unless otherwise ordered by the authority when examining a request for correction, an amount charged and fallen due for payment may be collected in accordance with the provisions of the Enforcement Code concerning a payment claim, liability for the payment of which has been imposed through a judgement having force of law.

If an advance imposed on an interested party cannot be collected from him, the custodian shall apportion the deficit between the other interested parties in proportion to their relative contribution liabilities.

### **Section 5**

A custodian relinquishing his appointment shall give an account of his administration. The account shall be presented at a cadastral procedure meeting.

The cadastral authority may order a custodian to supply information concerning the administration. The authority may also appoint a person to inspect the administration and to present a report on the inspection.

An interested party wishing to challenge the custodian's account or otherwise to proceed against him on account of the administration shall file proceedings in a land court, as indicated in Chap. 15, Section 1, within three months of the day on which the account was presented at a meeting. If no proceedings are filed within this time, the right of action will be lost unless the action is founded on the custodian having committed a criminal offence.

### **Section 6**

The custodian shall obtain the opinion of the interested parties in any matter of major importance for the accomplishment of the work. At the instance of a custodian, the cadastral authority shall hold a meeting of interested parties to discuss a question included in the custodian's assignment.

### **Section 7**

If a facility has been constructed as a common work under this Act, the cadastral authority may in the same cadastral procedure examine the question of apportionment of the cost of operating the facility. Apportionment takes place as provided in the Joint Facilities Act.

If it is found that a question as aforesaid should be specially examined under the Environmental Code and the Water Enterprises (Special Provisions) Act (1998:812) or the Joint Facilities Act, the cadastral authority shall order such examination.

A facility constructed as a common work under this Act is deemed established under the Joint Facilities Act. The aforesaid does not apply to a drainage ditch if the question of apportioning the costs of its operation has been examined under the Water Enterprises (Special Provisions) Act (1998:812).

## **Part Four**

### **Other property formation measures**

#### **Chap. 10. Subdivision**

##### **Section 1**

Through subdivision, a certain curtilage of a property unit or the share of a property unit in a joint property unit may be segregated to constitute a property unit in its own right or to be included in an amalgamation.

A subdivided curtilage or share is called a lot and the residue of the property unit a residual property unit. The term "subdivided parcel" refers both to residual property unit and to the lot.

##### **Section 2**

A joint property unit or a certain curtilage of a joint property unit can also be subdivided. Every property unit with a share of the joint property unit is deemed a residual property unit.

If a property unit having a share in the joint property unit is liable for a mortgage, subdivision may take place only if an amount which, in the opinion of the cadastral authority, corresponds to the value of the property unit's share in the land to be subdivided, has been paid into an authority nominated by the Government. This does not apply, however, if the creditors having a mortgage lien on the property unit have granted permission for subdivision to take place without payment having been made. If the property unit is encumbered by a joint mortgage, permission is also required from property owners and creditors as prescribed in Chap. 22, Section 11 of the Land Code for partial cancellation. Permission from a claim holder is not required if the subdivision is substantially of no importance to him.



Concerning the distribution of moneys paid in, Chap. 5, Section 16 (2) shall apply, *mutatis mutandis*.

### **Section 3**

Subdivision from a property unit encumbered by site leasehold may take place only if the property owner and the site lessee have concluded an agreement limiting the area of the site leasehold to one of the subdivided parcels and application for entry of the agreement has been declared dormant merely pending property formation.

If subdivision concerns an area for agriculture or forestry and the area has passed into the hands of a particular owner through a form of acquisition which would require an acquisition permit under the Land Acquisition Act (1979:230), subdivision may not take place without the question of an acquisition permit having been submitted to the permit authority.

### **Section 4**

In connection with subdivision from a property unit to which a share in a joint property unit or an easement or other special right belongs, it may be determined that the whole of the share or right or a part thereof should be added to the lot. A right which is unsuitable to divide up may be added to the subdivided parcels conjointly.

Insofar as no decision to the contrary has been made during subdivision and the contrary is not indicated by Chap. 2, Section 5 or special provisions, a share and right as aforesaid shall belong to the residual property unit.

### **Section 5**

The provisions concerning the formation of a joint property unit and an easement by reallocation and concerning transmission of buildings or other facilities by reallocation shall also apply to subdivision as regards the relation between the subdivided parts.

In the subdivision of a curtilage from a property unit having a share in a joint road, the right of using the road may be added to the lot in the form of an easement in the residual property unit. An easement of this kind may not be formed, however, if the need of the lot for a right of way can be better provided for by other means.

### **Section 6**

Subdivision takes place on application being made by the owner of the property unit.

If that which is to be subdivided has come into the hands of a particular owner through purchase or other acquisition, both the purchaser and the vendor may request subdivision.

### **Section 7**

When the subdivided parcels have one and the same owner, subdivision shall conform to what that owner has requested or approved.

### **Section 8**

If the subdivided parcels have separate owners, subdivision shall be based on a document of purchase or another document whereby the ownership has been divided up (a basic document). If the interested parties make a written agreement in a matter of importance for the subdivision, the agreement shall also be taken into consideration insofar as it is not at variance with what was intended at the making of the basic document.

If the applicant withdraws his request for subdivision, the cadastral procedure may not be cancelled without another interested party having been given the opportunity of requesting that it be continued and having omitted to make such a request.

### **Section 8 a**

In connection with subdivision pursuant to Section 1, the cadastral authority may order that the mortgages in the residual property unit shall not apply to the subdivided lot. An order of this kind may be made if the owner of the residual property unit or the subdivided lot so request.

An order as aforesaid may be made only if creditors having a mortgage lien on the residual property unit consent thereto. If the residual property unit and the subdivided parcel have the same owner, consent is also required from holders of other registered rights having the same or inferior priority to the mortgages. If all mortgages are charged to the residual property unit, consent is also required from property owners, creditors with mortgage lien and other right-holders as required for partial cancellation under Chap. 22, Section 11 of the Land Code. Consent is not needed from a party to whom the subdivision is substantially of no significance.

The order pursuant to subsection one shall be included in the property formation order.

### **Section 9**

With regard to the liability of a subdivided property unit for a claim which, without title registration, is combined with a right to payment out of the property unit, Chap. 6, Section 11 (2) and (3) of the Land Code shall apply, *mutatis mutandis*. This shall apply even if the residual property unit and the lot are in the hands of one and the same owner.

In connection with subdivision, the cadastral authority may order that a claim as referred to in the foregoing shall not encumber the lot. Such an order, however, may be made only if the creditor permits it or if it is substantially of no importance to him. The order shall be included in the property formation order.

Subsections one and two shall not apply if special provisions indicate otherwise.

### **Section 10**

The cost of subdivision as referred to in Section 7 is to be borne by the applicant. The cost of other subdivision is to be apportioned according to what is equitable.

## **Chap. 11. Partition**

### **Section 1**

A co-owned property unit may, on application being made by a co-owner, be divided up by partitioning into lots which can form property units in their own right or be included in amalgamation.

In partitioning, a separate lot is defined for every co-owner requesting it. A co-owned lot is defined for those co-owners who so request. A co-owned lot is defined for those co-owners who have not presented any special request.

If the property unit cannot be divided up as requested by the co-owners, a co-owned lot is defined to the extent to which consideration of Chap. 3 requires.

If it is important for a reallocation occurring for the purpose of achieving a general improvement in the division into property units within an area that a property unit be partitioned, a measure of this kind may be taken in connection with reallocation without application and without observing the provisions of subsections two and three and Section 3 (1). Chap. 5, Section 4 shall apply, *mutatis mutandis*, to such partitioning.

### **Section 2**

Partitioning may also take place when a party has acquired a share of a property unit and it has been determined in the document of acquisition that the share shall be parcelled out. Both the purchaser and the vendor may request partitioning.

If the applicant withdraw his application for partitioning, the cadastral procedure may not be cancelled without another interested party having been given the opportunity of requesting that it be continued and having omitted to make such a request.

### **Section 3**

Partitioning may take place only if a lot can be defined as requested.

A property unit encumbered by a site leasehold may not be partitioned unless the property owner and the site lessee have concluded an agreement limiting the area of the site leasehold to one of the lots and application for title registration of the agreement has been declared dormant merely pending property formation.

A property unit with a building or other structure may be partitioned only if the partitioning can be carried out in such a way that a co-owner will not be considerably inconvenienced by the building or structure being added to his lot.

If, by court order, a property unit is to be offered for sale on the common account of the co-owners, the property unit may be partitioned only if it is shown that no sale has materialised.

### **Section 4**

The land of the property unit and its shares in joint property units are apportioned between the various lots unless otherwise indicated by the provisions of Section 6 concerning the formation of a joint property unit. The grading value of each lot may not be substantially less than the co-owner's share in the grading value of the property unit, nor may it exceed the same share to such an extent as to cause considerable inconvenience to a co-owner. As regards the establishment of grading value, Chap. 5, Section 9 shall apply.

In calculating a co-owner's share in the grading value of the property unit, consideration shall be had to subdivision or any comparable measure whereby a certain area has been separated from a share in the property unit.

### **Section 5**

In the partitioning of a property unit to which an easement or some other special right belongs, the right shall be added in its entirety to one of the lots or apportioned between the lots or certain of them. A right which is unsuitable for dividing up may be added to several lots conjointly.

Except insofar as otherwise determined in the partitioning or indicated by Chap. 2, Section 5 or special provisions, a right as referred to in the foregoing belongs to the lots conjointly.

### **Section 6**

The provisions concerning the formation of a joint property unit and an easement by reallocation and concerning transmission of buildings or other facilities by reallocation shall also apply to partitioning as regards the relation between the lots.

Land which, by reason of its nature or location, cannot be valued with sufficient certainty or which has such a low value that the cost of dividing the land is not reasonable in proportion to its value may be designated as a joint property unit, even if this is not permitted under Chap. 6, Section 1.

### **Section 7**

Partitioning shall be effected in the manner entailing least inconvenience without unreasonable expense occurring.

### **Section 8**

The provisions of Chap. 5 concerning compensation between interested parties in connection with reallocation, concerning prohibition of or conditions for the felling of timber or the extraction of soil, gravel or sand and concerning taking possession shall also apply in connection with partitioning.

### **Section 9**

Derogation may be made from the provisions of Section 4 concerning allocation in connection with partitioning and of Section 8 concerning compensation between co-owners and from Section 7, subject to consent from the co-owners concerned.

If the partitioning is effected by virtue of consent as aforesaid, Chap. 5, Section 18 (2) and (3) and Sections 19 and 20 shall, where relevant, apply.

### **Section 10**

The cost of partitioning is to be apportioned between the co-owners according to what is equitable. If the partitioning takes place without application in connection with reallocation, the cost shall be apportioned between the interested parties according to what is equitable.

## **Chap. 12. Amalgamation**

### *Conditions for amalgamation*

#### **Section 1**

Property units having the same owner and possessed by equal title may be amalgamated into one property unit.

The provisions of this Chapter concerning a property unit amalgamated with another also apply to a part of a property unit parcelled out by subdivision or partitioning for amalgamation.

#### **Section 2**

A property unit owned by a person who is married and constituting that person's marital property may not be merged with a property unit being the individual property of the same spouse.

Property units separately owned by husband and wife may be merged if the spouses make a written agreement to the effect that each of them is to own a certain share of the newly formed property unit and that each spouse's share in its entirety will constitute that spouse's marital property or private property. If the agreement includes a gift, amalgamation may take place only if the agreement has been registered as provided in Chap. 16 of the Marriage Code.

#### **Section 3**

If a person has been assured, by agreement or some other legal document, of the right to repossess or purchase a property unit, the property unit may not be included in amalgamation without permission from the holders of rights.

A property unit encumbered by site leasehold may not be amalgamated with another property unit encumbered with a charge which has been granted or applied for. Nor may amalgamation take place unless the property owner and the site lessee have concluded an agreement to enlarge the area of the site leasehold to include the whole of the newly formed property unit and an application for registration of the agreement has been declared dormant solely pending property formation.

#### **Section 4**

In order for the inclusion of a property unit in amalgamation to be permissible, the owner must have registered ownership to the property unit or an application for registration of ownership must have been declared dormant and there must be no impediment to the application being granted in the event of the property formation taking place.

If an action has been brought concerning superior title to or right to purchase the property unit or if the title to the property unit is otherwise contentious, the property unit may not be included in a amalgamation. The same applies if the property unit is attached or is otherwise to be sold by the procedure prescribed for attached real property or if it is sequestrated or has been impounded. Attachment, sequestration or impoundment which will be annulled if the amalgamation comes about shall, however, be disregarded.

### **Section 5**

If more than one of the property units is encumbered by a charge granted or applied for, amalgamation may take place only if

1. none of the property units is encumbered by charges other than those applying in the same mutual order in the other or others or, in the event of there being a special charge on one of the property units, that charge has lower priority, or
2. the owners of the property units and holders of a mortgage lien or other right to which the charge refers have permitted the amalgamation on the basis of a proposed order of priority for the charges on the newly formed property unit.

### **Section 6**

For the purposes of Section 5, no account shall be had of a charge for an easement, right of user or right to electric power if the right does not affect land to be included in the amalgamation. Nor shall any account be had of a mortgage referred to in Chap. 10, Section 2 (2) or of a charge concerning which application has been made for cancellation or partial cancellation in a property unit included in the amalgamation, insofar as there will be no impediment to the measure if the property formation materialises.

Permission as referred to in Section 5, point 2 is not required from a property owner or holders of rights if implementation of the proposed order of priority is substantially of no importance for his security.

### *Effects of amalgamation*

### **Section 7**

Provisions concerning the effects of amalgamation on the extent of a mortgage are contained in Chap. 6, Section 16 of the Land Code. Those provisions apply, *mutatis mutandis*, concerning a claim which, without title registration, is combined with a right to payment from real property.

A charge as referred to in Section 6 (1) does not encumber the newly formed property unit after amalgamation.

An application for title registration in a property unit which has been amalgamated with another shall be deemed to refer to the newly formed property unit.

If an agreement as referred to in Section 2 implies that the newly formed property unit shall constitute property in which the spouses each have a share, then after amalgamation the registration of ownership granted or applied for each spouse shall refer to the share accruing to the spouse in the property unit.

### *Procedure in amalgamation*

### **Section 8**

Amalgamation takes place on application being made by the owner of the property units.

The cadastral authority may raise the question of amalgamation without application being made if the property units are affected by reallotment which takes place for the purpose of achieving a general improvement in the division into property units within an area or if other property formation is

dependent on the amalgamation. Amalgamation may not take place if the owner of the property unit contests the measure and it will presumably cause him inconvenience of some significance.

#### **Section 9**

The cadastral authority shall first examine whether an impediment to the amalgamation exists in a respect other than referred to in Sections 5 and 6. If the cadastral procedure is not then cancelled, an opinion shall be obtained from the land registration authority.

#### **Section 10**

The opinion of the land registration authority shall be given at the earliest possible opportunity. It shall be based on the land register section of the real property register and on what is otherwise known to the authority. In the opinion it shall be indicated whether an impediment to amalgamation exists as referred to in Sections 1-6. If reference is made in the matter to an agreement as referred to in Section 2, it shall also be indicated whether the agreement is legally valid.

If the land registration authority finds that the amalgamation is subject to an impediment which it should be possible to remove without any considerable delay, the applicant or another party who may be presumed willing to participate shall be called upon to take the necessary measures.

#### **Section 11**

A proposed order of priority shall be drawn up by the land registration authority. In doing so, care shall be taken to disturb the security of holders of rights as little as possible. A meeting of the owner of the property units and the holders of rights may be held in order to negotiate on the order of priority.

#### **Section 12**

If the amalgamation involves property units coming under more than one land registration authority, an opinion shall be obtained from one of the authorities. The authority from which an opinion has been requested shall obtain necessary information from the other authority or authorities.

#### **Section 13**

On the opinion of the land registration authority being received, the cadastral authority shall continue its examination of the matter at the earliest possible opportunity.

If amalgamation is effected on the basis of an order of priority, the latter shall be defined in the property formation order.

#### *Cost of amalgamation*

#### **Section 14**

The cost of amalgamation shall be paid by the applicant. If amalgamation takes place without application, the costs shall be apportioned according to what is equitable.

### **Chap. 13. Property formation for co-ordination with municipal boundaries**

#### **Section 1**

If a property unit has land on both sides of a municipal boundary, the property boundary shall be altered so as to agree with the municipal boundary. The alteration shall be effected by reallotment or subdivision. If necessary, the property formation may be effected without the conditions prescribed in Chap. 3 being observed. Reallotment may also be effected in derogation of Chap. 5, Section 4 if this is not objected to by an interested party.

If a joint property unit consists of land in different municipalities, the property boundary shall be adapted to the municipal boundary by means of reallotment or subdivision if this can be done without breaching the present Act.

## **Section 2**

Property formation as referred to in Section 1 takes place on application being made by the County Administrative Board.

If an order has been made for alteration of the municipal boundary, property formation occasioned by the alteration may be effected regardless of the alteration not yet having come into force.

## **Section 3**

Property formation as referred to in Section 1 shall if possible be effected in such a way that a property unit will not have a share in a joint property unit in another municipality. In cadastral procedure occasioned by a change in the municipal boundary, reallocation or subdivision may be undertaken, if there is otherwise no impediment thereto, without special application for a property unit which, as a result of the boundary change, has acquired a share in a joint property unit in another municipality, to be separated from that share.

In subdivision from the land of a property unit, the part with the smallest curtilage shall be separated as a lot, unless special conditions occasion otherwise.

## **Section 4**

The cadastral authority shall notify the municipalities of cadastral procedure under this chapter.

## **Section 5**

The cost of a measure occasioned by the provisions of this Chapter may not be charged to an interested party. The owner of a property unit which is divided or amended shall receive, free of charge, an excerpt from a cadastral plan if one is compiled.

Remuneration for a custodian in cases referred to here is always determined by the cadastral authority.

# **Part Five**

## **Property definition**

### **Chap. 14**

#### **Section 1**

Through property definition the cadastral authority may assess issues concerning

1. the nature of the division into property units,
2. the existence or extent of a utility easement or other easement,
3. whether buildings or other facilities belong to a property unit as provided in Chap. 2, Section 1 of the Land Code.

With regard to easements created by authority of the Environmental Code or corresponding earlier legislation, property definition as aforesaid may only refer to easements under Chap. 28, Section 10 of the Environmental Code or corresponding earlier legislation.

A question of property definition may be admitted for assessment if

1. this is necessary in connection with a property formation procedure,

2. the cadastral authority has ordered it pursuant to Section 15 of the Utility Easements Act (1973:1144) or Section 17 of the Joint Facilities Act (1973:1149),
3. an interested party has applied for it, or
4. a municipality has applied for it and the application concerns an area covered by a detailed development plan or area regulations or an area concerning which the question of drawing up such a plan or such regulations has been raised.

An application as provided in subsection three, paragraph 3 or 4 may not, however, be considered if the question is manifestly of no importance to the applicant. Nor, if the application concerns property definition of an easement, may it be admitted for assessment if the easement was not created by means of allocation or under the legislation concerning real property formation or private roads or under the Joint Facilities Act or Chap. 28, Section 10 of the Environmental Code or corresponding earlier provisions.

## **Section 2**

Property definition is handled by the cadastral authority in cadastral procedure. Concerning such procedure, Chap. 4, Sections 1-24, Section 28 (1) and Sections 31-40 shall apply.

If the property definition is connected with property formation, these measures shall be jointly handled in one cadastral procedure, failing special reason to the contrary.

## **Section 3**

In the cadastral procedure, the cadastral authority shall make the extent of the property definition clear to the interested parties and in doing so shall carefully indicate which questions are to be decided. Furthermore, the authority shall investigate the circumstances material to the property definition. The result of the investigation shall be presented to the interested parties.

## **Section 4**

A question raised in property definition is determined by order of the cadastral authority (a property definition order).

A property definition order concerning the extent of a public water area is of no effect insofar as the latter is shown to deviate from what is prescribed by law.

## **Section 5**

If property definition is concerned with the course of a boundary other than one concerning a public water area and a written agreement is made concerning the course of the boundary, the agreement shall be made the basis of the property definition order. An agreement may not be concluded before the course of the boundary has been set out to the necessary extent. Interested parties other than those who are present at a meeting when the question is dealt with or, if the cadastral procedure does not include a meeting, have made depositions in the matter in the cadastral procedure, need not participate in the agreement.

An agreement shall be disregarded if the agreed course substantially deviates from the right location of the boundary or if the agreement would cause the value of a property unit to diminish notably or cause inconvenience to occur from a public viewpoint.

## **Section 6**

The cadastral authority may make such adjustments to a boundary as are necessary in order for the boundary to follow an appropriate course in a technical sense.

## **Section 7**



The course of a boundary shall be indicated on the cadastral plan in accordance with the property definition order. If a plan is not drawn up, the course shall be described in the cadastral documents. The boundary shall also be set out and marked to the necessary extent. The setting out shall take place, at the latest, when the order is made. If appropriate, the setting out may be effected after the conclusion of the cadastral procedure. The interested parties shall be notified in good time of such a measure. The notice shall be given by written communication or by a special procedure resolved on as provided in Chap. 4, Section 20 (2).

#### **Section 8**

If the cadastral authority has made an order which may be appealed by separate process, the order and a plan and other document required so as to make clear the meaning of the order shall be kept available by the authority for as long as the order may be appealed.

#### **Section 9**

Concerning the conclusion of a cadastral procedure, Chap. 4, Section 29 shall apply.

Provisions concerning notice of a conclusion order are contained in Chap. 4, Section 33 a. A municipality which has applied for a cadastral procedure shall always be notified when the procedure has been concluded.

If a question of property formation has also been dealt with in the cadastral procedure, Chap. 4, Section 30 concerning measures in connection with the conclusion of the procedure shall also be applied.

#### **Section 10**

The cost of property definition shall be apportioned between the interested parties according to what is equitable. If the municipality is an applicant, the cost shall be borne by the municipality insofar as there is special cause. The provisions of Chap. 2, Section 6 concerning the apportionment of liability for payment when an agreement exists between the interested parties and concerning liability for costs when an application is rejected or a cadastral procedure is cancelled shall apply, *mutatis mutandis*, concerning property definition.

If property definition takes place in connection with property formation as provided in Chap. 13, Section 5 of that Chapter shall apply instead of subsection one.

### **Part Six**

## **Judicial proceedings in property formation cases**

### **Chap. 15. Prosecution of proceedings before a land court**

#### **Section 1**

A case appealed under the provisions of this Chapter (a property formation case) shall be adjudicated by the land court within whose jurisdiction the property unit or units concerned as situated. If the property units come within the jurisdictions of more than one land court, the case shall be tried by the court in which the greater part of the land is situated.

#### **Section 2**

An order or decision by the cadastral authority shall be appealed by separate process if the authority

1. has rejected an application for property formation or property definition or rejected an attorney or counsel,
2. disallowed challenge of a cadastral officer,

3. made an order concerning advance payment under Chap. 5, Section 30 (4) or the point in time at which a holder of a right is obliged to surrender land as provided in Chap. 5, Section 30 b,
4. made an order concerning remuneration for an expert or custodian or concerning compensation for an injured party referred to in Chap. 4, Section 38,
5. made a decision in a question concerning rectification of a cadastral order, plan or other document,
6. made an order to the effect that common work is to be done under this Act or that a question concerning such work shall be examined under other legislation,
7. made an order under Chap. 9, Section 3 for the apportionment of the cost of common work or, pursuant to Chap. 9, Section 4, for the charging of such costs,
8. made a decision for a custodian appointed to attend to common work to be relieved of his duties,
9. rejected an appeal,
10. made an order concerning referral under Chap. 5, Section 12 a,
11. decided not to examine a question referred to in Chap. 5, Section 12 c.

The petition of appeal referred to in this Section shall be submitted to the cadastral authority within three weeks of the day on which the decision was made. An appeal may be made by an interested party. Orders and decisions referred to in 1, 4, 5 and 8 may also be appealed by another party whom the decision concerns.

### **Section 3**

Sanctioning orders and orders concerning advance possession are appealed by separate process. The petition of appeal referred to in this Section shall be submitted to the cadastral authority within four weeks of the day on which the order was made. The same applies to property formation and property definition orders, if the cadastral authority decides that the order is to be appealed by separate process.

A prescription to the effect that an order or decision shall be appealed by separate process may be made if it is appropriate. If a property formation order does not include permission for the property formation in its entirety, it is further necessary for a sanctioning order to be made simultaneously or for a binding order of this kind to exist.

Appeals under this Section may be lodged by interested parties.

### **Section 4**

If an interested party maintains that the cadastral procedure is being unnecessarily delayed by the cadastral authority's decision or if he is dissatisfied with a decision whereby an order as referred to in Chap. 5, Section 21 has been made or permission as referred to in Chap. 5, Section 22 has been refused, he may appeal the decision. The appeal petition shall be submitted to the cadastral authority. This right of appeal is not limited to a fixed term.

### **Section 5**

A decision by the cadastral authority to sustain challenge may not be appealed.

### **Section 6**

If, in a case other than referred to in Sections 2-5, an order or measure by the cadastral authority is appealed, the appeal petition shall be submitted to the cadastral authority within four weeks of the day on which the cadastral procedure was declared concluded or cancelled.

A measure whereby a boundary has been marked may be appealed within one year of the day on which an entry concerning the property formation or the property definition was made in the general section of the real property register or, if the marking was not made until after the said day, from the time when the measure was completed.

An order concerning the charging of cadastral procedure costs may be appealed within three weeks of the due date given in the order.

Appeals under this Section may be lodged by interested parties. A person who has been ordered to pay compensation or a cost may appeal the decision, even if he is not an interested party.

#### **Section 7**

A permit or property formation order may be appealed by a municipal committee as referred to in Chap. 4, Section 15 (3), in the manner and within the time applying to an interested party.

#### **Section 8**

If the County Administrative Board finds that a permit or property formation order is contrary to a provision of this Act made for the benefit of a public interest, the County Administrative Board may appeal the order in the manner and within the time applying to an interested party.

The foregoing does not apply to property formation within an area covered by a detailed development plan or area regulations if the measure only concerns land which, according to the plan or regulations, is intended for a non-agricultural purpose.

#### **Section 9**

An order for the cancellation of cadastral procedure requested by the County Administrative Board or the municipality may be appealed by the applicant on the same terms as apply to an interested party.

A corresponding right applies to a person who has applied for reallocation under Chap. 5, Section 3 (2).

#### **Section 10**

If the cadastral authority finds that an entry concerning property formation or property definition cannot be made in the real property register on account of an error or uncertainty in the cadastral procedure and amendment cannot be obtained by the procedure indicated in Section 26 of the Administrative Procedure Act (1986:223), the authority may petition the land court for amendment. The same applies if the authority finds that registration in accordance with the cadastral procedure would jeopardise the reliability of the property registration or would otherwise be a cause of insecurity in legal matters.

Concerning application for amendment under this Section, the provisions of Chap. 16 shall apply. The right of applying for amendment is not limited to a fixed term.

#### **Section 11**

If all interested parties and others with the right of appeal have approved a cadastral procedure, cadastral order or boundary marking by signing the cadastral record or in a written communication received by the cadastral authority, that which has been approved may not be appealed.

### **Chap. 16. Procedure before the land court**

#### **Section 1**

If an appeal petition has been received by the land court, the court shall forward the petition to the cadastral authority and at the same time indicate the day when the writing was received by the court.

#### **Section 2**

The appeal petition shall be accompanied by two copies of the petition and documents pertaining to the same. If the court needs additional copies for service of documents or some comparable measure, it is the duty of the appellant to provide them. If copies are not available when needed, the court may provide them at the appellant's expense.

The foregoing does not apply to a plan, drawing or other appendix of a complicated nature if a copy of the document can be dispensed with without any substantial inconvenience.

### **Section 3**

If the land court finds that an interested party should testify concerning the appeal, the interested party shall be served with the appeal petition and documents appended to the same. The interested party shall be ordered to make a written declaration.

If, for the preparation or determination of the case, it is necessary for an opinion to be obtained from the County Administrative Board, a municipal committee as referred to in Chap. 4, Section 15 (3) or some other authority or from an expert or for written evidence to be presented, a special meeting to be held or some other such measure to be taken, the court shall make an order to this end without delay.

### **Section 4**

When the case has been prepared for a main hearing, the land court shall decide a time and place for the hearing. A main hearing may be scheduled for adjudication of a procedural matter or part of the case which can be determined separately, in spite of the preparation of the case not otherwise having been completed.

### **Section 5**

The interested parties shall be summoned to the main hearing. An interested party whose presence is manifestly of no importance for his or her right or otherwise for the determination of the case need not, however, be summoned.

If proceedings have been prosecuted by a representative of a public interest, that representative shall be summoned to the hearing. When an appeal by an interested party affects a public interest, the County Administrative Board or, if the case concerns property formation as indicated in Chap. 15, Section 8 (2), a municipal committee as referred to in Chap. 4, Section 15 (3), shall be summoned.

A representative or official of an authority whose activity is affected by the case can be summoned to supply information. A cadastral officer can also be summoned for this purpose.

A summons shall be served.

### **Section 6**

The land court may adjudicate and determine the case regardless of the non-appearance of an interested part or any other party who has been summoned to a main hearing.

### **Section 7**

The provisions of Sections 5 and 6 also apply, where relevant, to proceedings other than a main hearing.

### **Section 8**

The land court may determine a case without a main hearing if a main hearing will presumably be of no importance for the adjudication and no such hearing has been requested by an interested party or a representative of a public interest. If proceedings are prosecuted as provided in Chap. 15, Section 2, 4 or 10 or if the court finds the action to be manifestly groundless, the case may always be determined without a main hearing.

A main hearing is not necessary for the adjudication of a matter not concerning the actual cause.

If the court has ordered that a case is to be determined without a main hearing and if it is not obvious that an interested party or a representative of a public interest has already concluded his pleading, he shall be given the opportunity of doing so.

### **Section 9**

If an order in a cadastral procedure which has not been concluded has been appealed, the land court may prescribe that the cadastral procedure is to be suspended completely or in a certain respect or the procedure which has been suspended shall continue regardless of the appeal. Any such prescription shall enter into force immediately and shall apply pending an order to the contrary.

The land court may make an advance possession order if this is appropriate by reason of special circumstances. In this connection, Chap. 5, Section 30 a (2)-(4) shall apply, *mutatis mutandis*.

The land court can immediately ordain that an advance possession order by the cadastral authority may not be utilised until the land court has adjudicated the appeal.

### **Section 10**

The determination of the cause by the land court is made by decision. This shall be based on what has emerged in the course of view or other proceedings and on the content of the documents generally.

The provisions of the Code of Judicial Procedure concerning the drafting of a judgement in civil proceedings and concerning the pronouncing of such judgement shall apply, *mutatis mutandis*, to decisions in property formation cases.

If in a case there are several questions to be decided and they can be separated, a decision may be returned concerning one of the questions in spite of the adjudication of the others not having been concluded.

### **Section 11**

On an interested party having appealed, the order or measure by the cadastral authority may be amended only if other interested parties and, when the appeal concerns a public interest, the County Administrative Board or a municipal committee as referred to in Chap. 4, Section 15 (3) have been given the opportunity of a hearing. Amendment may, however, be made in favour of an interested party even if he has not had the opportunity of a hearing. The aforesaid shall also apply when an appeal has been lodged by a representative of a public interest or by the cadastral authority.

If the court finds that the appeal should occasion the amendment of a concluded cadastral procedure or of a property formation or property definition order which has been appealed by separate process, the court may also amend a part which has not been appealed if necessary for the prevention of a manifest contradiction or inconsistency in the cadastral procedure or order.

If the court finds, where cadastral procedure is concerned, a circumstance as referred to in Chap. 5, Section 10, the court may order the necessary measure, even if the appeal did not refer to the part of the cadastral procedure concerned.

### **Section 12**

If the land court cannot rectify an error in a cadastral procedure without inconvenience, the court shall vacate the order and measures by the cadastral authority insofar as they are affected by the error and shall refer the cadastral procedure back to the authority. In doing so the court may issue prescriptions for obtaining rectification.

If, following the conclusion of the cadastral procedure, a property formation or property definition order has been appealed and the party who requested the measure withdraws his application, the cadastral procedure shall be vacated in the respect to which the withdrawal refers, if others who have appeared at the cadastral procedure or before the court and were themselves entitled to call for the measure consent

thereto. In cases referred to in Chap. 10, Section 8 (2) and Chap. 11, Section 2 (2), the consent of other interested parties is always required.

#### **Section 12 a**

Only if there are exceptional reasons for doing so may cadastral procedure by a municipal cadastral authority be vacated on account of the authority having handled the matter instead of referring it to the national cadastral authority as provided in Section 5 of the Municipal Cadastral Authorities Act (1995:1393).

#### **Section 13**

A party summoned, by authority of Section 5 (3) or Section 7, to supply information is entitled to remuneration for entering appearance, as separately provided. An interested party may not be required to pay a cost occasioned thereby.

#### **Section 14**

The land court may, according to what is equitable having regard to the circumstances, order an interested party losing the case to compensate another interested party for that party's legal costs.

In cases concerning payment for compulsory purchase, however, an interested party surrendering land or a special right shall obtain indemnification for his expense regardless of the outcome of the case. The same shall apply in a case concerning compensation for land transmission or a measure affecting a right referred to in Chap. 5, Section 10 a (2).

Subsections one and two shall not apply if provision to the contrary is made in Chap. 18, Section 6 or 8 of the Code of Judicial Procedure. If, in a case referred to in subsection two, a claim prosecuted by the party surrendering or granting land or a right is disallowed, Chap. 15, Section 6 of the Planning and Building Act (1987:10) shall apply.

If an interested party wins a case against a representative of a public interest, the court may award him compensation for legal costs if there are exceptional reasons for doing so. Such compensation shall be paid by the State or, if the municipality alone represents the public interest, by the municipality.

If, in a case other than referred to in Section 13, the cost of evidence or of a special measure ordered by the court is to be paid out of public funds, the court, when it is reasonable to do so, may order that the cost shall be borne by the State.

#### **Section 14 a**

If an interested party wins a case concerning review of a decision referred to in Chap. 15, Section 6 (3), the court may award him or her compensation for legal costs if there is found to be exceptional cause for doing so. Such compensation shall be paid by the State or, if the appealed decision was made by a municipal cadastral authority, by the municipality.

#### **Section 15**

After a decision or final order by a land court in a property formation case has acquired force of law, the cadastral dossier and a copy of the decision or order shall be sent to the cadastral authority. If the decision is contested in a certain respect and, by reason of the court's decision otherwise, the question of registration may arise, the documents shall be sent to the cadastral authority. After registration the authority shall immediately return the cadastral dossier to the court.

#### **Section 16**

The provisions of this Chapter concerning an interested party shall also apply to another individual party.

### **Chap. 17. Proceedings in the court of appeal**

### **Section 1**

Unless otherwise provided, a decision or order by a land court may be contested by appeal to the court of appeal. The appeal petition shall be submitted to the land court. A time limit of four weeks applies instead of the time prescribed in Chap. 52, Section 1 of the Code of Judicial Procedure.

An appeal may be lodged by an interested party and another individual party and by a representative of a public interest who could have filed proceedings in the matter before the land court.

### **Section 2**

An order made by the land court pursuant to Chap. 16, Section 9 (2) shall be appealed by separate process.

An order by the land court in a matter appealed there as provided in Chap. 15, Section 2 (1), points 2-4, 6-9, Section 3 concerning advance possession or Section 4 may not be appealed.

### **Section 3**

Concerning proceedings before the court of appeal, Chap. 16, Sections 3, 7 and 9-13, Section 14 (1), (4) and (5), Section 14 a, Section 15 and Section 16 shall apply. Chap. 16, Section 15 shall not apply, however, when the court of appeal refers a case back to the land court.

In a case referred to in Chap. 16, Section 14 (2), the party having to pay compensation for land or a right shall, unless otherwise indicated by Chap. 18, Section 6 or 8 of the Code of Judicial Procedure, always bear his own costs and the cost which he or she causes the opponent by himself appealing. If, however, in a case of this kind, a claim prosecuted by the party surrendering or granting land or a right is disallowed, Chap. 15, Section 6 of the Planning and Building Act (1987:10) shall apply. Otherwise the provisions of Chap. 18 of the Code of Judicial Procedure shall apply.

Evidence by view of the locus in quo may be admitted by the court of appeal only if there are exceptional reasons for doing so.

## **Chap. 18. Proceedings before the Supreme Court**

### **Section 1**

A decision or order by the court of appeal may, unless otherwise prescribed, be contested by appeal to the Supreme Court. The appeal petition shall be submitted to the court of appeal within the time limit prescribed in Chap. 56, Section 1 of the Code of Judicial Procedure.

An appeal may be lodged by an interested party, by another individual party and by a representative of the public interest who could have appealed the matter in the court of appeal.

An order by the court of appeal in a matter under Chap. 16, Section 9 (2) which has been appealed there may not be appealed. An order by the court of appeal in a matter of advance possession in other cases may be appealed by separate process.

### **Section 2**

Concerning proceedings before the Supreme Court, Chap. 16, Sections 3, 7 and 9 and 10, Section 11 (2) and (3), Sections 12 and 13, Section 14 (1), (4) and (5), Section 14 a, Section 15 and Section 16 shall apply. Chap. 16, Section 15 shall not apply, however, when the Supreme Court refers a case back to an inferior court.

In cases referred to in Chap. 16, Section 14 (2), the provisions of Chap. 17, Section 3 (2) shall apply.

Evidence by view of the locus in quo may be admitted by the Supreme Court only if there are exceptional reasons for doing so.

## **Part Seven**

### **General section of real property register**

#### **Chap. 19**

##### **Section 1**

The following are entered in the general section of the real property register as property units:

1. a unit shown as a property unit in the general section of the real property register 1<sup>st</sup> January 1972,
2. a property unit formed as provided in this Act,
3. a unit which is to be registered as a property unit by provision in another statutory instrument.

Every property unit shall have an individual designation.

##### **Section 2**

An entry concerning property formation and property definition shall be made in the general section of the real property register. A new property unit shall then be entered in the register and such other changes made as are occasioned by the measure thus taken.

The foregoing shall apply, *mutatis mutandis*, when the division into property units is amended or its nature is established by a procedure other than indicated in this Act.

##### **Section 3**

An entry concerning property formation or property definition shall be made at the earliest possible opportunity after the cadastral procedure has been concluded and the procedure or, if it has been appealed, the decision by the court has acquired force of law.

Even if the cadastral procedure has not been concluded, an entry concerning such a property formation or property definition order as would have been appealed by separate process shall be made as soon as the order has acquired force of law.

If an order or measure relating to a concluded cadastral procedure is appealed, an entry occasioned by the cadastral procedure may be made in the general section of the real property register insofar as the entry is not manifestly affected by the appeal. The same shall apply if a property formation order or a property definition order is appealed by separate process.

The foregoing shall also apply when a court decision in a property formation case is appealed.

##### **Section 4**

If an entry in the general section of the real property register is manifestly incorrect, it shall be rectified if this can be done without detriment to any property owner or right-holder. If it is obvious that no such detriment can occur, rectification shall be made immediately. Otherwise the property owner or right-holder shall, if known, be given the opportunity of a hearing.

If it is obvious that a property unit shown in the register does not exist, the property unit may be excluded from the register pursuant to subsection one, even if the account is not incorrect according to the prescriptions applying to the general section of the real property register.

An obvious inaccuracy due to a technical fault in the general section of the real property register may be rectified even if the rectification can entail detriment to a property owner or right-holder. The



opportunity of a hearing shall be given to an authority referred to in Chap. 18, Section 5 (1) of the Land Code, as well as to the property owner and right-holder.

#### **Section 5**

A party suffering loss in consequence of a technical fault in the general section of the real property register or in a device connected to the register at the National Land Survey, a land registration authority, a cadastral authority or an authority referred to in Chap. 4, Section 34 a is entitled to compensation from the State.

If the injured party has contributed to the loss by omitting, without reasonable cause, to take action for the preservation of his right or if he has otherwise contributed to the loss through his own fault, the compensation shall be reduced or eliminated entirely, according to what is found reasonable.

An owner or right-holder suffering loss due to a rectification decision under Section 4 (3) is entitled to compensation from the State. No compensation will be paid, however, if, having regard to the nature of the fault or other circumstances, the injured party should have realised that an error had been committed.

The provisions of Chap. 18, Sections 5 and 7 of the Land Code shall apply, *mutatis mutandis*, concerning compensation as referred to in this Section.

#### **Section 6**

Transactions concerning the entry or deletion of particulars in the general section of the real property register are handled by the cadastral authority.

The Government may issue prescriptions authorising an authority other than the cadastral authority to enter or delete particulars in the general section of the real property register. Such prescriptions may only refer to particulars which are to be entered in the general section of the real property register under legislation other than this Act.