

Disclaimer: The English language text below is provided by the Translation and Terminology Centre for information only; it confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published. Only the latter is authentic. The original Latvian text uses masculine pronouns in the singular. The Translation and Terminology Centre uses the principle of gender-neutral language in its English translations. In addition, gender-specific Latvian nouns have been translated as gender-neutral terms, e.g. *chairperson*.

Text consolidated by Tulkošanas un terminoloģijas centrs (Translation and Terminology Centre) with amending laws of:

20 June 2001;
31 October 2002;
19 June 2003;
12 February 2004;
7 April 2004;
17 June 2004;
2 September 2004;
17 February 2005;
9 June 2005;
1 December 2005;
25 May 2006;
7 September 2006;
26 October 2006;
14 December 2006.

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and
the President has proclaimed the following law:

Civil Procedure Law

Part A General Provisions

Division One Basic Provisions of Civil Court Proceedings

Chapter 1 Principles of Civil Procedure

Section 1. Rights of a Person to Court Protection

(1) Every natural or legal person (hereinafter — person) has a right to protection of their infringed or disputed civil rights, or interests protected by law, in court.

(2) A person who has applied to a court has the right to have their matter adjudicated by the court in accordance with the procedures prescribed by law.

Section 2. Adjudging of Civil Matters by Courts

Courts in accordance with the procedures prescribed by this Law and the Law On Judicial Power shall adjudge civil matters.

¹ The Parliament of the Republic of Latvia

Section 3. Time when Legal Norms Regulating Court Proceedings in Civil Matters are in Force

Court proceedings in civil matters shall be regulated by the civil procedural legal norms, which are in force during the adjudication of the matter, the performing of individual procedural actions or the executing of a court judgment.

[7 April 2004]

Section 4. Court Instances Regarding Civil Matters

(1) Civil matters shall be adjudicated on the merits by a court of first instance, but pursuant to the complaint of the participants in the matter regarding the judgment of such court, also by a court of second instance in accordance with appellate procedure, provided that it is not otherwise prescribed by law.

(2) A civil matter shall not be adjudicated on the merits in a court of higher instance before it has been adjudicated in a court of lower instance.

(3) The judgment of a court of second instance may be appealed by the participants in the matter in accordance with cassation procedures.

Section 5. Application of Legal Norms

(1) Courts shall adjudge civil matters in accordance with laws and other regulatory enactments, international agreements binding upon the Republic of Latvia and the legal norms of the European Union.

(2) If different provisions are provided for in an international agreement, which has been ratified by the Saeima than in Latvian laws, the provisions of the international agreement shall be applied.

(3) If the relevant issue is regulated by legal norms of the European Union, which are directly applicable in Latvia, the Latvian law shall applied insofar as it allows the legal norms of the European Union.

(4) In specific cases specified in laws or agreements, the courts shall also apply the laws of other states or international legal norms.

(5) If there is no law regulating disputed relations, the courts shall apply a law regulating similar legal relations, but if no such law exists, the courts shall act in accordance with general legal principles and meaning.

(6) In applying legal norms, the court shall take into account case law.

[7 April 2004]

Section 5.¹ Assigning of Matters to the European Court of Justice

A court in accordance with European Union legal norms, shall assign matters to the European Court of Justice regarding the interpretation or validity of legal norms for the rendering of a preliminary ruling.

[7 April 2004]

Section 6. Initiation of Civil Matters in Court

(1) A judge shall initiate a civil matter pursuant to the application of persons regarding whom such matter concerns.

(2) A judge shall also initiate civil matters pursuant to the application of State or local government institutions or of persons, upon who has been conferred the right to defend other persons' rights or interests protected by law in court.

(3) A statement of claim shall be submitted for actions in court proceeding matters, but in special adjudication procedure matters – an application.

Section 7. Civil Claims in Criminal Matters

(1) Civil claims for compensation of financial loss or moral injury in criminal matters may be brought in accordance with the procedures prescribed by the Criminal Procedure Law.

(2) If a civil claim has not been submitted or adjudicated in a criminal matter, an action may be brought in accordance with the procedures prescribed by this Law.

Section 8. Determination of Facts in a Civil Matter

(1) The court shall clarify the circumstances of a matter, examining evidence, which has been obtained in accordance with the procedures prescribed by law.

(2) The court shall explain to the participants in the matter their rights and duties, and the consequences of performing or failing to perform procedural actions.

[25 May 2006]

Section 9. Equality of Parties in the Civil Procedure

(1) In regard to procedural rights, parties are equal.

(2) The court shall ensure that the parties have equal opportunity to exercise their rights in order to protect their interests.

Section 10. Adversarial Proceedings in Civil Procedure

(1) Parties shall exercise their procedural rights by way of adversarial proceedings.

(2) Adversarial proceedings shall take place through the parties providing explanations, submitting evidence and applications addressed to the court, participating in the examination of witnesses and experts, in the examination and assessment of other evidence and in court argument, and performing other procedural actions in accordance with the procedures prescribed by this Law.

Section 11. Open Adjudication of Civil Matters

(1) Civil matters shall be adjudicated in open court, except for matters regarding:

1) determination of the parentage of children;

2) approval and setting aside of adoption;

3) annulment or dissolution of marriage; and

4) declaring a person to be lacking capacity to act because of mental illness or mental deficiency.

(2) Persons under the age of 15 who are not participants or witnesses in the matter may only be present at court sittings with the permission of the court.

(3) Pursuant to a reasoned request by a participant in the matter or at the discretion of the court the court sitting or part thereof may be declared as closed:

1) if it is necessary to protect official secrets or commercial secrets;

2) if it is necessary to protect the private life of persons and confidentiality of correspondence;

3) in the interests of minors;

4) if it is necessary to examine a person who has not reached 15 years of age; or

5) in the interests of court adjudication.

(4) The participants in the matter and, if necessary, experts and interpreters, shall participate at a closed court sitting.

(5) If none of the participants in the matter objects, with the permission of the chairperson of the court sitting persons who have a special reason to do so may participate in a closed court sitting.

(6) In closed court sittings matters shall be adjudicated in compliance with all the provisions applicable to court proceedings.

(7) Adjudications of courts in matters, which are adjudicated in open court, shall be publicly pronounced.

(8) In matters, which are adjudicated in a closed court sitting, the operative part of the court adjudication shall be publicly pronounced. In matters regarding confirmation or revocation of adoption the adjudication shall be pronounced in a closed court sitting.

[31 October 2002]

Section 12. Adjudication of a Civil Matter by a Judge Sitting Alone and Collegial Adjudication

(1) In a court of first instance a judge sitting alone shall adjudicate a civil matter.

(2) In appellate or cassation courts, civil matters shall be adjudicated collegially.

Section 13. Language of Court Proceedings

(1) Court proceedings shall take place in the official language.

(2) The participants in the matter shall submit foreign language documents accompanied with a translation thereof into the official language, certified in accordance with the procedures prescribed by law.

(3) The court may also allow certain procedural actions to take place in another language, if a participant in the matter pleads therefor and all participants in the matter agree. The minutes of the court session and adjudications of the court shall be written in the official language.

(4) The court shall ensure the right of participants in a matter, representatives of legal persons excepted, who do not have a command of the language used in the court proceedings, to examine the materials of the matter and participate in procedural actions utilising the aid of an interpreter.

Section 14. Unchangeability of a Court Panel

(1) Adjudication of a matter on the merits shall take place without change in the court panel.

(2) Replacement of a judge during the course of the adjudication of the matter shall only be permitted if he or she cannot complete adjudication of the matter due to taking up a different position, illness or another objective reason.

(3) If a judge is replaced by another judge during the course of the adjudication of the matter, the adjudication of the matter shall be commenced anew.

[31 October 2002]

Section 15. Direct and Viva Voce Adjudging of Civil Matters

(1) In adjudging civil matters, courts of first instance and appellate instance courts shall themselves examine evidence in the matter.

(2) Persons summoned and summonsed to a court shall provide explanations and testimony orally. The testimony of previously examined witnesses as recorded in the minutes, written evidence and other materials, shall be read out at the request of the parties.

A court is not required to read out the documents in the matter, if the parties consent thereto.

(3) In the cases provided for by this Law, a court shall examine applications, complaints and issues by written proceedings without organising a court sitting.

[31 October 2002; 25 May 2006]

Chapter 2 Composition of the Court

Section 16. Judges

A matter shall be adjudicated in the court by judges who have been appointed or confirmed to office in accordance with the procedures prescribed by the Law on Judicial Power.

Section 17. Deciding of Issues in Court

(1) All issues arising in the course of a matter being adjudicated collegially shall be decided by a majority vote of the judges.

None of the judges is entitled to abstain from voting.

(2) In cases provided for by this Law a judge shall take decisions sitting alone.

Section 18. Judge Not Allowed to Participate in Repeated Hearing of Matter

(1) A judge who has participated in the adjudicating of a matter in a court of first instance may not participate in the adjudicating of the same matter in a court of appellate or cassation instance, or in a re-adjudicating of the matter in a court of first instance, if the judgment or decision regarding termination of the court proceedings or leaving the action unadjudicated, made with participation of the judge, has been set aside.

(2) A judge who has participated in the adjudicating of a matter in a court of appellate instance or of cassation instance may not participate in the adjudicating of the same matter in a court of first instance or of appellate instance.

Section 19. Recusal or Removal of a Judge

(1) A judge does not have the right to participate in the adjudicating of a matter if the judge:

1) has in a previous adjudicating of the matter been a participant, witness, expert, interpreter, or the court recorder of the court sitting;

2) is in a relationship of kinship to the third degree, or relationship of affinity to the second degree, with any participant in the matter;

3) is in a relationship of kinship to the third degree, or relationship of affinity to the second degree, with any judge who is a member of the court panel adjudicating the matter; or

4) has a direct or indirect personal interest in the outcome of the matter, or if there are other circumstances as create well-founded doubt as to his or her objectivity.

(2) If the circumstances referred to in Paragraph one of this Section or in Section 18 of this Law exist, the judge shall recuse himself or herself before the adjudicating of the matter commences.

(3) If any of the circumstances referred to in Paragraph one of this Section are ascertained by a judge in the course of adjudicating a matter, the judge shall recuse himself or herself during the court sitting, stating the reasons for such recusal.

In such a case the court shall adjourn the adjudicating of the matter.

(4) If a judge has not recused himself or herself, any participant in the matter may, on the grounds referred to in this Section, apply for removal of a judge or several judges concurrently, stating the reasons for the recusal of each judge.

[31 October 2002]

Section 20. Application for Removal

(1) A participant in a matter may apply for a removal in writing or orally, and regarding such application an entry shall be made in the minutes of the court sitting.

(2) An application for removal shall be submitted before the adjudicating of the matter on the merits has commenced.

Removal may be applied for subsequently if the grounds therefor become known during the adjudicating of the matter.

[31 October 2002]

Section 21. Procedure regarding Adjudicating of Removal Applications

(1) If removal is applied for, the court shall hear the opinion of other participants in the matter and hear the judge whose removal is applied for.

(2) The court in the deliberation room shall adjudge a removal applied for during a court sitting.

(3) In a matter adjudicated by a judge sitting alone, the removal application shall be adjudged by the judge himself or herself.

(4) In a matter being adjudicated collegially, the removal application shall be adjudged in accordance with the following procedure:

1) if the application for removal is in regard to one judge, it shall be adjudged by the rest of the court.

If there is an equal distribution of votes, the judge shall be removed; or

2) if the removal has been applied for in regard to more than one judge, it shall be adjudged by the same court in full panel by a majority vote.

[31 October 2002]

Section 22. Consequences of Successful Application for Removal

(1) If a judge or several judges have been removed, the matter shall be adjudicated by the same court composed of a different court panel.

(2) If it is impossible to form a different court panel in the relevant court, the matter shall be forwarded to another district (city) court or to another regional court.

[31 October 2002]

Chapter 3

Jurisdiction of Civil Legal Disputes

Section 23. Jurisdiction

- (1) All civil legal disputes shall be subject to the court, unless otherwise provided for by law. This shall not deprive parties of the right to apply, upon mutual agreement, to an arbitration court in order to settle a dispute.
- (2) The issue of the jurisdiction of a dispute shall be decided by a court or a judge. If a court or a judge finds that a dispute is not within the jurisdiction of the court, their decision shall indicate the institution within whose competence the deciding of such dispute lies.
- (3) The court shall also adjudicate applications of natural or legal persons as are not in the nature of civil legal disputes, where adjudication thereof is prescribed by law.

Section 24. Jurisdiction of a District (City) Court

Matters over which a court has jurisdiction shall be examined by a district (city) court, except for matters to be examined, in accordance with law, by a regional court.

Section 25. Jurisdiction of a Regional Court

- (1) A regional court shall examine the following matters within the jurisdiction of a court:
- 1) matters in which there is a dispute regarding property rights in regard to immovable property;
 - 2) matters arising from rights in regard to obligations, if the amount of the claim exceeds 150 000 lats;
 - 3) matters regarding patent rights, and protection of trademarks and geographical indications; and
 - 4) [1 December 2005]
 - 5) matters regarding insolvency and liquidation of credit institutions.
- (2) If a matter involves several claims, some of which are within the jurisdiction of a district (city) court and others within the jurisdiction of a regional court, or a counter-claim has been accepted at a district (city) court as the adjudication of which is within the jurisdiction of a regional court, the matter shall be adjudicated by a regional court.
- [1 December 2005; 26 October 2006; 14 December 2006]*

Section 26. Bringing of Actions in Accordance with the Place of Residence or Location of the Defendant

- (1) Actions against natural persons shall be brought in a court in accordance with their place of residence.
- (2) Actions against legal persons shall be brought in a court in accordance with their location (legal address).

Section 27. Bringing of Actions where the Place of Residence of the Defendant is Unknown

Actions against defendants whose place of residence is unknown, or who have no permanent place of residence in Latvia, shall be brought in a court in accordance with the location of their immovable property or their last known place of residence.

Section 28. Jurisdiction in Accordance with the Choice of the Plaintiff

- (1) An action arising in relation to the action of a subsidiary or representative office of a legal person may also be brought in a court in accordance with the location of the subsidiary or representative office.
- (2) An action regarding recovery of support or determination of paternity may also be brought in accordance with the place of residence of the plaintiff.
- (3) An action arising out of private delicts (Sections 2347-2353 of the Civil Law) which have resulted in mutilation or other damage to health, or the death of a person, may also be made according to the place of residence of the plaintiff or the location where the delicts were inflicted.
- (4) An action regarding damage inflicted to the property of a natural or legal person may also be brought in accordance with the location where such damage was inflicted.
- (5) An action regarding recovery of property or compensation for the value thereof may also be brought in accordance with the place of residence of the plaintiff.
- (6) Maritime claims may also be brought in accordance with the location of the arrest of the defendant ship.
- (7) An action against several defendants, who reside at or are located in various places, may be brought in accordance with the place of residence or location of one defendant.
- (8) An action regarding dissolution of a marriage, or annulment of marriage, may be brought in a court in accordance with the choice of the plaintiff, in accordance with the provisions of Sections 234 and 235 of this Law.
- (9) An action, which arises from employment legal relations, may also be brought in accordance with the place of residence or place of work of the plaintiff.

[19 June 2003; 7 April 2004]

Section 29. Exceptions regarding Jurisdiction

- (1) An action regarding ownership rights or any other property rights in regard to immovable property or appurtenances thereof, or an action regarding registration of such rights in the Land register or expungement of such rights and exclusion of property from the description statement, shall be brought in accordance with the location of the property.
- (2) Where the confirmed heirs to or the heirs who have accepted an inheritance are unknown, jurisdiction with respect to actions of creditors regarding the whole estate lies in the court in accordance with the place of residence of the estate-leaver, but, if the place of residence of the estate-leaver is not in Latvia or is unknown – in the court in accordance with the location of the property of the estate or a part thereof.
- (3) Exceptions regarding jurisdiction may also be prescribed in other laws.

Section 30. Jurisdiction by Agreement

- (1) In entering into a contract, the contracting parties may determine the court of first instance where potential disputes regarding such a contract or its performance shall be decided.
- (2) Exceptions regarding jurisdiction prescribed by law may not be altered by the agreement of parties.

Section 31. Jurisdiction regarding Several Mutually Related Matters

- (1) A counterclaim shall be brought to the court according to the place where the initial claim is to be adjudicated, irrespective of the jurisdiction of the counterclaim.

(2) A civil claim arising from a criminal matter, if such claim has not been submitted or adjudicated during adjudication of the criminal matter, shall, in accordance with the civil procedure, be brought pursuant to the general provisions regarding jurisdiction.

Section 32. Transfer of Matters Accepted as Court Proceedings to Another Court

(1) Matters which a court has accepted within its own court proceedings, in compliance with the provisions regarding jurisdiction, shall be adjudicated by such court on the merits, notwithstanding that jurisdiction may have changed in the course of the matter being adjudicated, except in a case provided for in Paragraph three of this Section.

(2) A court may assign a matter to another court for the adjudicating thereof, if:

1) during the adjudicating of the matter in the court, it becomes apparent that the matter has been accepted in violation of provisions regarding jurisdiction;

2) after the recusal or removal of one or more judges their replacement in the same court is impossible; or

3) a defendant, whose place of residence was previously unknown, submits a request to assign the matter to the court according to the place of residence of such defendant, except for the case when the defendant has concealed it.

(3) A district (city) court shall forward a matter to a regional court, if the matter falls within the jurisdiction of a regional court in accordance with Section 25 of this Law.

(4) A decision on assigning a matter to another court may be appealed by participants in the matter in accordance with the procedures set out in this Law.

(5) A matter shall be transferred to another court when the time period for appeal has expired, but if the decision is appealed, after the appeal is dismissed.

(6) A matter, which has been sent from one court to another, shall be accepted for adjudication by the court to which the matter has been sent.

[31 October 2002]

Chapter 4 Costs of Adjudication

Section 33. Costs of Adjudication

(1) Costs of adjudication are court costs and costs related to conducting a matter.

(2) Court costs are:

1) State fees;

2) office fees; and

3) costs related to adjudicating a matter.

(3) Costs related to conducting a matter are:

1) costs related to assistance of advocates;

2) costs related to attending court sittings; and

3) costs related to gathering evidence.

[20 June 2001]

Section 34. State Fees

(1) For each statement of claim – original claims or counterclaims, applications of a third person statement of claim with an independent claim regarding the subject-matter of the dispute, submitted in a procedure already commenced, applications in special adjudication procedure matters, and

other claims applications provided for in this Section submitted to the court – a State fee shall be paid in the amount set out as follows:

- 1) in regard to claims assessable as a monetary amount:
 - a) not exceeding 100 lats – 10 lats,
 - b) from 101 lats to 1000 lats – 15 per cent of the amount claimed,
 - c) from 1001 lats to 5000 lats – 150 lats plus 2.5 per cent of the amount claimed exceeding 1000 lats,
 - d) from 5001 lats to 20 000 lats – 250 lats plus 1.6 per cent of the amount claimed exceeding 5000 lats,
 - e) from 20 001 lats to 100 000 lats – 490 lats plus one per cent of the amount claimed exceeding 20 000 lats,
 - f) from 100 001 lats to 500 000 lats – 1290 lats plus 0.3 per cent of the amount claimed exceeding 100 000 lats, and
 - g) exceeding 500 000 lats – 2490 lats plus 0.05 per cent of the amount claimed exceeding 500 000 lats;
- 2) in regard to a statement of claim in a matter regarding marriage dissolution – 50 lats, but for a statement of claim regarding dissolution of a marriage with a person who has been declared missing or found to be lacking capacity to act because of mental illness or mental deficiency, or who has been sentenced to a term of deprivation of liberty of not less than three years – five lats;
- 3) for applications in special adjudication procedure matters – 10 lats, but for applications in matters regarding insolvency of undertakings and companies or insolvency or liquidation of credit institutions – 100 lats;
- 4) in regard to other claims which are not financial in nature or are not required to be evaluated – 20 lats;
- 5) for applications regarding securing of claims or interim safeguard measures – 20 lats, but for applications regarding securing of claims where the amount claimed exceeds 4000 lats – 0.5 per cent of the amount claimed;
- 6) for applications regarding securing of evidence, if such application is submitted prior to the bringing of the action – ten lats;
- 7) for applications regarding an undisputed compulsory execution, compulsory execution of obligations in accordance with warning procedures, voluntary sale of immovable property by auction through the court or submission to the court of the subject-matter of an obligation for safekeeping thereof – one per cent of the amount of the debt, value of the property to be returned or voluntarily auctioned, or value of the subject-matter provided for safekeeping, but not exceeding 100 lats;
- 8) for applications regarding issuing a writ of execution on the basis of a judgment of a permanent arbitration court or the recognition and execution of an adjudication of a foreign arbitration court – one per cent of the amount of the debt, but not exceeding 100 lats;
- 9) for applications regarding renewal of court proceedings and adjudicating of the matter *de novo* in a matter where a default judgment has been rendered – in the same amount as for a statement of claim;
- 10) for statements of claim regarding division of joint property – 50 per cent of the rate to be paid for the statement of claim in accordance with general procedures from the value of the property to be divided; and
- 11) for complaints in matters regarding insolvency in relation to the decisions of a meeting of creditors or a creditor committee, for complaints in relation to the actions of an administrator or a liquidator, as well as the performance of the activities specified in Articles 33 and 37 of Council regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings (hereinafter – Council regulation No. 1346/2000) – 10 lats.

(2) In rendering judgment, the court shall determine the State fee in the amount as follows:

1) in matters regarding confirmation of inheritance rights, if the value of the inheritance exceeds ten times the minimum monthly salary:

a) for the spouse of, and heirs of the first, second or third degree residing with the estate-leaver – 0.5 per cent of the value of the estate property;

b) for other heirs of the first and second degree – one per cent of the value of the estate property;

c) for other heirs of the third degree – three per cent of the value of the estate property, and

d) for heirs of the fourth degree – ten per cent of the value of the estate property;

2) in matters regarding last will instruction instruments or the coming into lawful effect of an inheritance contract, if the value of the inheritance exceeds ten times the minimum monthly salary:

a) for the spouse and heirs of the first, second or third degree – 50 per cent of the amount of the State fee specified in Paragraph two, Clause 1 of this Section,

b) for heirs of the fourth degree – eight per cent of the value of the estate property,

c) for other testamentary or contractual heirs – 15 per cent of the value of the estate property, and

d) for other testamentary or contractual heirs if they are public benefit organisations – 3 per cent of the value of the estate property; and

3) [31 October 2002]

(3) In matters regarding confirmation of inheritance rights and the coming into effect of a will or inheritance contract, the State fee specified in Paragraph two of this Section shall be paid upon receipt of a true copy of the judgment after a judgment has come into lawful effect, or upon receipt of a will or inheritance contract with a notation thereon regarding its coming into effect.

(4) The State fee for an appeal shall be 50 per cent of the rate which must be paid upon submitting a statement of claim (an application in a special adjudication procedure matter), but in regard to disputes of a financial nature – of the rate calculated in accordance with the disputed amount.

(5) For an ancillary complaint regarding a court judgment a State fee shall not be charged.

(6) When submitting a writ of execution or another execution document for execution a State fee shall be paid – one lat.

(7) When submitting an application regarding the recognition and execution of an adjudication of a foreign court a State fee shall be paid – 10 lats.

[31 October 2002; 7 April 2004; 2 September 2004; 17 February 2005; 25 May 2006; 14 December 2006]

Section 35. Amount Claimed

(1) The amount claimed shall be:

1) in regard to claims regarding recovery of money – the amount to be recovered;

2) in regard to claims regarding recovery of property – the value of the property to be recovered;

3) in regard to claims regarding collection of means of support – the total amount to be paid within one year;

4) in regard to claims regarding term payments and remittances – the total amount of all payments and remittances, but for not more than three years;

5) in regard to claims regarding payments and remittances without term or for life – the total amount of all payments and remittances for a three year period;

6) in regard to claims regarding reduction or increase of payments or remittances – the amount by which the payments or remittances are reduced or increased, but for not more than one year;

7) in regard to claims regarding termination of payments or remittances – the total amount of the remaining payments or remittances, but for not more than one year;

8) in regard to claims regarding early termination of lease and rental agreements – the total amount of payments for the remaining period of the agreement, but for not more than three years;

9) in regard to claims regarding property rights with respect to immovable property – the value, but not less than the cadastral value, thereof;

10) in claims consisting of several independent financial claims – the total sum of all the claims; and

11) in regard to claims regarding the termination or recognition as null and void of a transaction – the amount of the transaction in dispute.

(2) The amount claimed shall be set out by the plaintiff.

If the amount claimed, as set out, manifestly does not correspond with the actual value of the property, the amount claimed shall be determined by the court.

[2 September 2004]

Section 36. Supplementary State Fees

(1) In regard to claims that are difficult to assess at the time of submission, the judge shall initially determine the amount of the State fee.

The final amount of the State fee shall be determined by the court upon the matter being adjudicated.

(2) If the amount claimed is increased, except in regard to the adding of interest and increments, a supplementary State fee shall be paid accordingly.

Section 37. Repayment of State Fee

(1) State fees paid shall be repaid fully or partly in the following cases:

1) if the fee paid exceeds the fee prescribed by law;

2) if the court refuses to accept an application or leaves an application unadjudicated in accordance with Section 406.⁶ of this Law;

3) if the court proceedings in a matter are terminated on the grounds that the court does not have jurisdiction to adjudicate the matter or the court proceedings are terminated in accordance with Section 408.⁸ of this Law; or

4) if a claim is left unadjudicated on the grounds that the interested party who has brought the matter to the court has not complied with the extrajudicial examination procedures set out for the respective type of matter, or the claim has been submitted by a person lacking capacity to act.

(2) State fees shall be repaid on the condition that an application requesting its repayment has been submitted to the court within one year from the date when the sum was paid into the state budget.

(3) State fees shall be repaid from state budget funds on the basis of a decision of a court or a judge.

[31 October 2002; 19 June 2003]

Section 38. Office Fees

(1) Office fees shall be paid as follows:

1) for issuing a true copy of a document in a matter, as well as for reissuing a court judgment or decision – two lats;

- 2) for issuing a certificate – 0.50 lats;
 - 3) for issuing a duplicate of a writ of execution – five lats;
 - 4) for certifying the coming into effect of a court adjudication, if such adjudication is to be submitted to a foreign institution – three lats; and
 - 5) for summoning witnesses – 3 lats for each person.
- (2) Office fees shall be paid into the State basic budget.
[2 September 2004]

Section 39. Costs Related to the Adjudicating of Matters

- (1) Costs related to the adjudicating of matters are:
- 1) amounts, which must be paid to witnesses and experts;
 - 2) costs related to the examination of witnesses or conducting of inspections on-site;
 - 3) costs related to searching for defendants;
 - 4) costs related to execution of court judgments;
 - 5) costs related to the service and issue, of true copies of statements of claim, and of court summonses;
 - 6) costs related to publication of notices in newspapers;
 - 7) costs related to security for a claim; and
 - 8) costs related to the safeguarding, and the preparing of an inventory of an estate.
- (2) The procedures for calculating the amounts to be paid to witnesses and experts, or the amount of costs related to searching for a defendant, shall be determined by the Cabinet.

Section 40. Procedures for Paying in Amounts of Costs Related to the Adjudicating of Matters

- (1) Amounts of costs which must be paid to witnesses and experts, or amounts necessary to pay the costs of conducting inspections or the examination of witnesses on-site, of the service and issue of court summonses, of publication of notices in newspapers and of security for a claim shall be paid, prior to the adjudicating of a matter, by the party who made the relevant request.
- (2) If such request has been submitted by both parties, they shall pay in the required amounts equally.
- (3) Payment of the amounts referred to in this Section are not required to be paid in by a party who is exempted from the payment of court costs.

Section 41. Reimbursement of Court Costs

- (1) The party in whose favour a judgment is made shall be adjudged recovery of all court costs paid by such party, from the opposite party. If a claim has been satisfied in part, the recovery of amounts set out in this Section shall be adjudged to the plaintiff in proportion to the extent of the claims accepted by the court, whereas the defendant shall be reimbursed in proportion to the part of the claims dismissed in the action. State fees for applications regarding renewal of court proceedings and adjudicating of the matter *de novo* in a matter where a default judgment has been rendered shall not be recompensed.
- (2) If a plaintiff discontinues an action, he or she shall reimburse court costs incurred by the defendant. In this case the defendant shall not reimburse the court costs paid by the plaintiff. However, if a plaintiff discontinues his or her claims because, after they are submitted, the defendant has voluntarily satisfied them, the court shall, pursuant to the request of the plaintiff, adjudge recovery of the court costs paid by the plaintiff as against the defendant.

(3) If an action is left unadjudicated, the court shall, pursuant to the request of the defendant, adjudge recovery of the court costs paid by the defendant as against the plaintiff, except in a case as specified in Section 219, Clause 2 of this Law.

[31 October 2002]

Section 42. Reimbursement of Court Costs to the State

(1) If a plaintiff is exempted from court costs, recovery of such court costs, in proportion to that part of the claim that has been satisfied, may be adjudged against the defendant, for payment to the State.

(2) If an action is dismissed, recovery of court costs as have not been paid previously, may be adjudged as against the plaintiff for payment to the State.

(3) If a claim has been satisfied in part, but the defendant is exempted from payment of court costs, such costs, in proportion to that part of the claim which has been dismissed, may be recovered from a plaintiff as is not exempt from the payment of court costs for payment to the State.

(4) If both parties are exempt from payment of court costs, the court costs shall be assumed by the State.

Section 43. Exceptions from General Provisions Regarding Court Costs

(1) The following persons shall be exempt from payment of court costs to the State:

1) plaintiffs – in claims regarding recovery of remuneration for work and other claims of employees arising from legal employment relations or related to such;

2) plaintiffs – in regard to claims arising from personal injuries that result in mutilation or other damage to health, or the death of a person;

3) plaintiffs – in claims regarding recovery of support payments;

4) plaintiffs – in claims regarding compensation for financial loss and moral injury resulting from criminal offences;

5) public prosecutors, state or local government institutions and persons who are conferred the right by law to defend the rights, and interests protected by law, of other persons in court;

6) the submitters of applications – in matters regarding the finding of a person to be lacking capacity to act, and establishment of trusteeship;

7) the submitters of applications – in regard to the establishment of trusteeship for a person because of a dissolute or spendthrift lifestyle, or excessive use of alcohol or drugs;

8) defendants – in matters regarding reduction of support payments adjudged by a court, and reduction of such payments as the court has assessed in claims arising from personal injuries resulting in mutilation or other damage to health, or the death of a person;

9) the submitters of applications – a spouse and heirs of the first and second degree, in that part of inheritance matters regarding inheritance of privatisation certificates;

9¹) the submitters of applications – in matters regarding the illegal movement of children across borders or detention;

10) administrators – in claims that are brought for the benefit of persons recognised as insolvent;

11) judgment creditors – in execution matters regarding recoveries for payment into State revenues; and

12) the State Revenue Service, Enterprise Register or the liquidators appointed thereof – in applications regarding recognition of persons as insolvent.

(2) If a public prosecutor or state or local government institutions or persons who are conferred the right by law, to defend in court other persons' rights and interests protected by law, of other persons

in court, withdraws from an application which has been submitted on behalf of another person, but such person demands adjudication of the matter on the merits, the court costs shall be paid in accordance with generally applicable provisions.

(3) The parties may also be exempted from payment of court costs to the State in other cases provided for by law.

(4) A court or a judge, upon considering the material situation of a natural person, shall exempt him or her partly or fully from payment of court costs into State revenues, as well as postpone payment of court costs adjudged into State revenues, or divide payment thereof into instalments.

(5) In claims regarding dissolution of marriage at the request of the plaintiff the judge shall postpone payment of State fees or divide payment thereof into instalments if a minor child is in the care of the plaintiff.

[20 June 2001; 31 October 2002; 19 June 2003; 7 September 2006]

Section 44. Costs Related to Conducting a Matter and Reimbursement Thereof

(1) Costs related to the conducting of a matter shall be reimbursed in the following amounts:

1) costs for the assistance of an advocate – the actual amount thereof, but not exceeding five per cent of that part of the claim which has been allowed and in claims which are not financial in nature, not exceeding the normal rate for advocates;

2) travel and accommodation costs related to attendance at a court sitting – in accordance with the rates for reimbursing official travel costs determined by the Cabinet; and

3) costs related to obtaining written evidence – the actual amount disbursed.

(2) It shall be adjudged that costs related to the conducting of a matter be recovered against the defendant in favour of the plaintiff, if the plaintiff's claim has been allowed fully or in part, or if a plaintiff does not maintain the claims because the defendant has voluntarily satisfied them after an action is brought.

(3) If an action is dismissed, recovery of costs related to the conducting of the matter shall be adjudged as against the plaintiff in favour of the defendant.

[20 June 2001]

Section 45. Appeal of Decisions Regarding Court Costs

The person to whom it applies may appeal a decision in respect of an issue related to court costs.

[19 June 2003]

Chapter 5 Procedural Time Periods

Section 46. Determination of Procedural Time Periods

(1) Procedural actions shall be carried out within the time periods prescribed by law. If the law does not prescribe the procedural time periods, a court or a judge shall determine them. The length of the time period determined by a court or a judge must be such as makes it possible for the procedural action to be carried out.

(2) A precise date, time period ending on a set date or period of time (expressed in years, months, days or hours) shall be determined for the carrying out of a procedural action. If the procedural action is not required to be carried out on a specific date, it may be carried out at any time during the time period.

(3) The time period may also be determined by indicating an event, which shall occur in any case.
[31 October 2002]

Section 47. Commencement of the Computation of Procedural Time Periods

(1) A procedural time period computed in years, months or days shall commence on the day following the date or event indicating its commencement.

(2) A procedural time period computed in hours commences from the next hour following the event indicating its commencement.

[31 October 2002]

Section 48. Termination of Procedural Time Periods

(1) A time period calculated in years shall expire on the respective month and date of the final year of the time period. A time period calculated in months shall expire on the respective date of the final month of the time period. If a time period calculated in months terminates on a month that does not have the respective date, it shall expire on the last day of such month. A set time period extending until a particular date shall expire on such date.

(2) If the final day of a time period is Saturday, Sunday or a holiday prescribed by law, the following working day shall be considered the final day of the time period.

(3) A procedural action regarding which a time period expires may be carried out until 12 o'clock midnight on the final day of the time period.

(4) If a procedural action is to be carried out in court, the time period shall expire at that hour when the court ceases work. If a statement of claim, appeal or other sending is delivered to a communications institution on the final date of the time period by 12 o'clock midnight, they shall be considered to have been submitted within the time period.

[31 October 2002]

Section 49. Consequences of Default Regarding Procedural Time Periods

The right to perform procedural actions shall lapse after the expiration of the time period determined by law or by a court. Appeals and documents submitted after the expiration of a procedural time period shall not be accepted.

[31 October 2002]

Section 50. Suspension of Procedural Time Periods

If proceedings in a matter are stayed, the computation of a time period is suspended. The computation of a time period is suspended from the time when a circumstance has occurred as is cause for a stay of proceedings. The computation of a procedural time period shall be continued from the day when proceedings are renewed in the matter.

[31 October 2002]

Section 51. Renewal of Procedural Time Periods

(1) Upon the application of a participant in the matter, the court shall renew procedural time periods regarding which there has been default, if the reasons for default are found justified.

(2) In renewing a time period regarding which there has been default, the court shall at the same time allow the delayed procedural action to be carried out.

[31 October 2002]

Section 52. Extension of Procedural Time Periods

The time periods determined by a court or a judge, may be extended pursuant to an application by a participant in the matter.

Section 53. Procedures regarding Extension and Renewal of Procedural Time Periods

(1) An application regarding extension of a time period or renewal of a time period regarding which there has been default shall be submitted to the court where the delayed action was to have been carried out. Such application shall be decided in a court sitting, and the participants in the matter shall be notified in advance about the time and place of the sitting. The failure of such persons to attend is not an impediment to adjudication of the application.

(2) An application regarding renewal of a procedural time period shall be accompanied by documents required for the carrying out of the procedural action, and the grounds for renewal of the time period.

(3) A time period determined by a judge may be extended by a judge sitting alone.

(4) An ancillary complaint may be submitted regarding a refusal by a court or a judge to extend or renew a time period.

Chapter 6 Court Notifications and Summonses

Section 54. Summons to Court

(1) Participants in a matter shall be summoned to the court through the giving of due notice as to the time and place of court sittings or individual procedural actions.

(2) Participants in a matter, if their place of residence is indicated in the application, shall be summoned to the court with a court summons. If the place of residence of a defendant is not known, they shall be summoned to the court by publication of a notice in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Republic of Latvia].

(3) Witnesses, experts and interpreters shall be summonsed to the court with a summons.

Section 55. Court Summons

There shall be set out in a summons:

1) the given name, surname and place of residence of a natural person or the name and location (legal address) of a legal person summoned or summonsed;

2) the designation and address of the court;

3) the time and place of attendance;

4) the name of the matter to which the person is summoned or summonsed;

5) a statement of reasons why the addressee is summoned or summonsed;

6) a notice that it is the duty of a person who has received the summons on account of the absence of the addressee to pass it on to the addressee; and

7) the consequences of failing to attend.

Section 56. Service of a Summons

- (1) A summons shall be sent by registered mail, by notification thereof as a telegram, telephoned message, facsimile, or it shall be delivered by a messenger.
- (2) A participant in a matter may, with the consent of a judge, obtain a summons to be served upon another person to be summoned or summonsed in regard to the matter.
- (3) A summons shall be served upon the person summoned or summonsed at the address indicated by a participant in the matter. The court summons may also be sent to the workplace of such person.
- (4) A summons served by a messenger or a participant in the matter shall be given to the person summoned or summonsed personally, such person signing therefor, and the signature part of the summons shall be returned to the court.
- (5) If the summons server does not meet the person at their place of residence, the server shall give the summons to an adult family member residing with such person. If the summons server does not meet the addressee at their workplace, he or she shall leave the summons with the workplace administration for it to be given to the addressee. In the cases mentioned the recipient of the summons shall set out their given name and surname in the signature part of the summons and indicate their relationship with the addressee or their work position, and the summons shall be given to the addressee without delay.
- (6) If a person to be summoned or summonsed to the court is not able to be found at their place of residence and their location is unknown, the summons server shall make an appropriate note thereof in the signature part of the summons. The summons server shall also set out in this part of the summons the place to which the addressee has gone, and the time when the addressee is expected to return, if he or she has ascertained this.
- (7) The time of service of a served summons shall be noted in the signature part of the summons being served, which shall be returned to the court.
- (8) If a person resides in a foreign state, the summons may be sent through the Ministry of Foreign Affairs of the Republic of Latvia, or in accordance with the procedures set out in international agreements binding upon the Republic of Latvia.
- (9) If a summons has been sent in accordance with the procedures set out in this Section, it shall be presumed that the person to be summoned or summonsed has been notified of the place and time of the adjudication of the matter, except in the case provided for in Paragraph six of this Section.

Section 57. Consequences of Refusing to Accept a Summons

- (1) If a person to be summoned or summonsed to the court refuses to accept the summons, the summons server shall make an appropriate notation in the summons.
- (2) Refusal to accept a summons is not an impediment to the adjudication of a matter.

Section 58. Change of Address during Proceedings regarding a Matter

- (1) A participant in a matter shall notify the court about any change in their address during proceedings regarding a matter. If there is no such notice, a summons shall be sent in accordance with the last known address of the person. In such case it shall be presumed that the participant in the matter has been notified about the time and place of the adjudication of the matter.
- (2) If a participant in the matter does not notify the court about a change of their address during proceedings, a fine may be imposed upon them by a court or a judge, not exceeding 15 lats.

Section 59. Summoning to Court through Publication in a Newspaper

- (1) A defendant, whose place of residence is unknown or who cannot be found at their place of residence, shall be summoned to the court through publication in the newspaper *Latvijas Vēstnesis*.
- (2) Independently of the publication of a summoning notice in the newspaper *Latvijas Vēstnesis*, plaintiffs have the right to publish the text of the court summons in other newspapers at their own expense.
- (3) The text of the summons published in a newspaper shall correspond to the contents of the summons.
- (4) A court may adjudicate a matter without the participation of the defendant, if not less than one month has passed since the day the summons was published in the newspaper *Latvijas Vēstnesis*.
- (5) At the same time as a newspaper summons to a defendant is published, the summons shall also be sent to the defendant in accordance with the location of his or her immovable property, if the plaintiff has indicated such location.

Section 60. Search for a Defendant if their Place of Residence is Unknown

If the place of residence of a defendant is unknown, the court, pursuant to the request of the plaintiff, is entitled to proclaim a search for the defendant.

Chapter 7 Minutes

Section 61. Duty of Keeping Minutes

- (1) Minutes of the court sitting shall be kept at every sitting of a court of first instance and appellate instance.
- (2) In the cases provided for in this Law, minutes shall also be kept regarding separate procedural actions performed outside a court sitting.

Section 62. Contents of Minutes

- (1) There shall be set out in the minutes of a court sitting:
 - 1) the year, date, month and location of the court sitting;
 - 2) the name of the court which adjudicates the matter, the composition of the court, the court recorder of the court sitting, advocates and public prosecutors who participate in the matter;
 - 3) the time when the court sitting is opened;
 - 4) the name of the matter;
 - 5) information about the attendance of participants in the matter, witnesses, experts and interpreters;
 - 6) information as to the procedural rights and duties of the participants in the matter having been explained to such participants;
 - 7) information as to the witnesses, experts and interpreters having been warned regarding criminal liability;
 - 8) explanations of participants in the matter, testimony of witnesses, oral explanations of experts regarding their conclusions, information concerning the examination of real and written evidence;
 - 9) applications of participants in the matter;
 - 10) court orders and decisions that have not been taken as separate procedural documents;

- 11) brief summaries of opinions of state and local government institutions;
 - 12) brief summaries of court arguments and public prosecutors' opinions;
 - 13) information regarding the retiring of the court in order to take a decision or render judgment;
 - 14) information regarding the pronouncing of judgments or decisions taken as separate procedural documents;
 - 15) information as to the explaining of the contents of judgments or decisions, of appeal procedures and time periods;
 - 16) information as to when the participants in the matter may acquaint themselves with the minutes of the court sitting and a complete text of the judgment;
 - 17) the time when the court sitting is closed; and
 - 18) the time when the minutes of the court sitting are signed.
- (2) There shall be entered in the minutes of the court sitting the withdrawal of a claim by a plaintiff, the admitting of a claim by a defendant and the admitting of legal facts by the participants in the matter, and such entry shall respectively be signed by the defendant, the plaintiff or both parties.
- (3) The minutes of the court sitting shall be signed by the chairperson of the court sitting and the court recorder of the court sitting.
- (4) Minutes of separate procedural actions performed outside a court sitting shall comply with the requirements of this Section.
- [20 June 2001; 19 June 2003]*

Section 63. Writing of Minutes

- (1) Minutes shall be written by the court recorder of the court sitting.
- (2) Minutes shall be signed not later than three days after the termination of a court sitting or implementation of separate procedural actions, but in complicated matters – not later than five days thereafter.
- (3) All additions and amendments in the minutes shall be justified before the chairperson of the court sitting and the court recorder of the court sitting sign the minutes. Incomplete lines and other blank spaces in the minutes shall be crossed out. Erasures or blocking out shall not be permitted in the text of minutes.

Section 64. Notes Regarding Minutes

- (1) Participants in a matter who have participated in the court sitting, within a period of three days from the time the minutes are signed, may submit written notes regarding the minutes, indicating defects and errors appearing therein.
- (2) The notes submitted shall be examined by the chairperson of the court sitting within five days, and if the chairperson agrees to the notes, the chairperson shall confirm their validity and attach them to the minutes of the court sitting.
- (3) If the chairperson of the court sitting does not agree with the notes submitted, such notes shall be examined at a court sitting, by the same court panel as there was at the adjudicating of the matter, within ten days from the day when the notes are examined by the chairperson of the court sitting. If a court panel of three judges adjudicated the matter and it is not possible to ensure the same court panel, the issue shall be adjudicated by a court in the panel of which are at least two of the judges who participated in the adjudicating of the matter.
- (4) Participants in a matter shall be notified regarding the time and place of the court sitting. The failure of such persons to attend is not an impediment to the adjudicating of the issue.

(5) After examining the notes, the court shall take a decision regarding the correctness thereof or rejection of the notes.

[19 June 2003]

Chapter 8

Procedural Sanctions

Section 65. Types of Procedural Sanctions

In the cases prescribed in this Law, the court may apply the following procedural sanctions:

- 1) a warning;
- 2) expulsion from the courtroom;
- 3) a fine; or
- 4) forced conveyance to the court.

Section 66. Warning

A person who disturbs the order during the adjudicating of a matter shall be given a warning by the chairperson of the court sitting and in regard to this a notation shall be made in the minutes of the court sitting.

Section 67. Expulsion from the Court Room

If participants in a matter, witnesses, experts or interpreters repeatedly disturb the order during the adjudicating of a matter, they may be expelled from the court room pursuant to a decision of the court, but other persons present may be expelled pursuant to an order of the chairperson of the court sitting even without prior warning.

Section 68. Fine

- (1) A court shall impose a fine in the cases and in the amounts stipulated by this Law.
- (2) A true copy of the court decision (extract from the minutes) regarding imposition of a fine shall be sent to the person on whom the fine is imposed.
- (3) A person on whom a fine has been imposed may, within ten days after receipt of a true copy of the court decision (extract from the minutes), petition the court which imposed the fine to release such person from the fine or reduce the amount thereof. Such submission shall be adjudicated at a court sitting, and the person on whom the fine has been imposed shall be notified of the sitting in advance. The failure of such person to attend is not an impediment to the adjudicating of the submission.
- (4) Fines imposed on officials shall be collected from their personal resources.

Section 69. Forced conveyance

- (1) In cases prescribed by this Law a court may take a decision regarding forced conveyance of a person to the court.
- (2) Such decision shall be executed by a police institution specified by the court.

Section 70. Administrative and Criminal Liability of Participants in a Matter and Other Persons

Participants in a matter and other persons who by their acts or failure to act disrupt the work of the court may, parallel to the procedural sanctions provided for by law, be held to administrative or criminal liability in the cases prescribed by law.

Division Two Participants in a Matter

Chapter 9 Civil-procedural Legal Capacity and Civil-procedural Capacity to Act

Section 71. Civil-procedural Legal Capacity

- (1) Civil-procedural legal capacity is the capacity to have civil-procedural rights and duties.
- (2) All natural persons and legal persons shall be recognised as having equal civil-procedural legal capacity.

Section 72. Civil-procedural Capacity to Act

- (1) Legal persons, and natural persons who have attained legal age and have the capacity to act, have the capacity to exercise civil-procedural rights and perform duties (civil procedure capacity to act).
- (2) Court matters shall be conducted, for natural persons from 15 to 18 years of age and those persons for whom a trusteeship has been established in accordance with Section 365 of The Civil Law, by their lawful representatives, but the court shall also invite such persons themselves to participate in such matters.
- (3) Court matters shall be conducted, for natural persons who have not attained the age of 15 or who have been recognised as not having the capacity to act, by their lawful representatives.
- (4) In cases prescribed by law, minors shall be entitled to independently exercise their civil-procedural rights and to perform duties. In such matter the legal representatives of such persons may, in the discretion of the court, be called upon to assist such persons in conducting the matter.

Section 73. Concept of Participant in a Matter

- (1) Participants in a matter are parties, third persons, representatives of parties and third persons, public prosecutors, persons who have, by law, been conferred the right to defend the rights and lawful interests of other persons in court, authorities which may be called upon to provide opinions in cases provided for by law, and representatives of such persons.
- (2) Persons possessing civil-procedural legal capacity and civil-procedural capacity to act may be participants in matters. State and local government institutions upon which, by law, has been conferred the right to defend the rights and interests protected by law, of other persons in court may be participants in matters regardless of whether or not they are legal persons.

[7 April 2004]

Chapter 10

Parties

Section 74. Parties, their Rights and Duties

- (1) Any natural or legal person may be a party (a plaintiff or a defendant) in a civil matter.
- (2) Parties have the following civil-procedural rights:
 - 1) to acquaint themselves with the materials of a matter, make extracts therefrom and prepare copies thereof;
 - 2) to participate in court sittings;
 - 3) to make application regarding removal;
 - 4) to submit evidence;
 - 5) to participate in examination of evidence;
 - 6) to submit petitions;
 - 7) to provide oral explanations and written explanations to the court;
 - 8) to express their arguments and considerations;
 - 9) raise objections against requests, arguments and considerations of other participants in the matter;
 - 10) to appeal court judgments and decisions; and
 - 11) to receive true copies of judgments, decisions and other documents in the matter, and to enjoy other procedural rights granted them by this Law.
- (3) In addition, plaintiffs have the right:
 - 1) to withdraw their claims partly or fully;
 - 2) to reduce the amount of their claims; and
 - 3) in writing, to amend the basis or the subject-matter of their action or to increase the amount claimed, before the adjudicating of the matter on the merits is commenced (Section 163 of this Law).
- (4) A defendant is entitled to admit a claim fully or partly, or to bring a counterclaim.
- (5) Parties may enter into a settlement or agree to transfer the matter to an arbitration court.
- (6) Parties shall exercise their rights and perform their duties in good faith.
- (7) It is the duty of the parties:
 - 1) to attend the court pursuant to a court summons;
 - 2) to give timely notice in writing of reasons preventing them from attending a court sitting;and
 - 3) to perform other procedural duties imposed upon them in accordance with this Law.

Section 75. Procedural Participation

- (1) An action may be brought by several plaintiffs against one defendant, one plaintiff against several defendants, or several plaintiffs against several defendants.
- (2) Each co-plaintiff and co-defendant acts independently in relation to the other party and other co-participants.
- (3) Co-participants may assign the conducting of the matter to one of the co-participants or to one joint representative.

Section 76. Plaintiffs in Matter Initiated by Other Persons

A person in whose interests a matter has been initiated pursuant to the application of a public prosecutor, or of a State or local government institution or person to whom has been

conferred the right to defend rights and interests protected by law, of other persons in court, shall participate in the matter as a plaintiff.

Section 77. Assumption of the Procedural Rights of a Party

- (1) If one of the parties in a matter withdraws (a natural person dies, a legal person ceases to exist, a claim is ceded, a debt is transferred), the court shall allow such party to be replaced by the successor in interest of the party.
- (2) Assumption of rights may take place at any stage of the procedure.
- (3) All actions performed in the procedure up until the time a successor in interest enters therein, shall be as binding upon the successor as they were upon the person whose rights are assumed.

Chapter 11 Third Persons

Section 78. Participation of Third Persons in the Civil Procedure

- (1) Natural or legal persons whose rights or duties in relation to one of the parties may be affected by the judgment in a matter may be third persons in the civil procedure.
- (2) Provisions regarding procedural legal capacity and capacity to act applicable to parties apply to third persons; third persons have the procedural rights and duties of parties with exceptions as laid down in Section 80 of this Law.
- (3) Third persons may enter into a matter before the adjudicating of the matter on the merits has been completed in a court of first instance. They may also be invited to participate in the matter pursuant to the petition of a public prosecutor or the parties.

Section 79. Third Persons with Independent Claims

- (1) Third persons presenting independent claims regarding the subject-matter of a dispute, may enter into the matter upon submitting a statement of claim.
- (2) Third persons with independent claims have the rights and duties of plaintiffs.

Section 80. Third Persons without Independent Claims

- (1) Third persons presenting independent claims regarding the subject-matter of the dispute may enter into the matter on the side of the plaintiff or the defendant if the judgment in the matter may affect the rights or duties of such third persons towards one of the parties.
- (2) Third persons presenting independent claims have the procedural rights and duties of parties, except the rights to vary the basis or the subject-matter of an action, to increase or decrease the amount of a claim, to withdraw from an action, to admit a claim or enter into a settlement, or to demand the execution of a court judgment.
- (3) In submissions regarding the inviting of third persons to participate, and in submissions of third persons regarding entering into a matter on the side of the plaintiff or the defendant, there shall be set out the grounds why third persons should be invited or allowed to participate in the matter.

Section 81. Court Decisions Regarding Inviting or Allowing Third Persons to Participate in Matters

(1) A third person shall be invited or allowed to participate in a matter in accordance with the decision of a court.

(2) An ancillary complaint may be submitted regarding a court decision by which a petition regarding entering into a matter by a third person is dismissed.

Chapter 12 Representatives

Section 82. Right to Representation in the Civil Procedure

(1) Natural persons may conduct matters in court personally or through their authorised representatives.

(2) Matters of legal persons shall be conducted in court by officials who act within the scope of authority conferred upon them pursuant to law, articles of association or by-law, or by other representatives authorised by legal persons.

(3) Matters of State or local government institutions entitled by law to protect the rights or lawful interests of other persons in court shall be conducted by the head of the institution or a representative authorised by the head of the institution.

(4) The participation by participants in civil matters referred to in Paragraphs one, two and three of this Section does not deprive them of the right to retain an advocate to provide legal assistance in their matter. In such case Section 86 of this Law shall prescribe the scope of authority of the advocate, and he or she shall not provide explanations regarding the substance of the matter.

(5) [12 February 2004]

[20 June 2001; 31 October 2002; 12 February 2004]

Section 83. Persons who may be Authorised Representatives in the Civil Procedure

Any natural person may be an authorised representative in the civil procedure, taking into account the restrictions specified in Section 84 of this Law.

[20 June 2001; 31 October 2002; 19 June 2003; 12 February 2004]

Section 84. Persons who May Not Act as Representatives in the Civil Procedure

(1) The following may not act as representatives in the civil procedure:

1) persons who have not attained legal age;

2) persons who have been found to not have the capacity to act, as well as persons for whom trusteeship has been established in accordance with the requirements of Section 365 of the Civil Law;

3) persons who, by a judgment of a court, have been deprived of the right to conduct the matters of other persons;

4) persons who are in kinship relations to the third degree, or in affinity relations to the second degree, with the judge who is to adjudge the matter; and

5) persons who have rendered legal assistance to the other party in the dispute in this matter or in another matter related thereto.

(2) Upon ascertaining that the circumstances referred to in Paragraph one of this Section exist, the court shall not allow the respective person to participate at the adjudication of the matter.

Section 85. Formalising Representation

- (1) Representation of natural persons shall be formalised with a notarially certified authorisation. The authorisation of a representative may be expressed by way of an oral submission in court by the person to be represented, and shall be recorded in the minutes of the court sitting.
 - (2) Representation of legal persons shall be formalised with a written authorisation or documents attesting to the right of an official to represent the legal person without special authorisation.
 - (3) Authorisation of an advocate to provide legal assistance shall be confirmed by a retainer. If an advocate acts as an authorised representative of a party, their authorisation shall be confirmed by a written authorisation.
 - (4) Parents, adopters, guardians and trustees shall present to the court documents confirming their rights.
 - (5) If an authorised representative is one of the procedural participants on behalf of another participant, such authorisation may be expressed by way of an oral submission in court by the person to be represented, and shall be recorded in the minutes of the court sitting.
- [20 June 2001; 12 February 2004; 17 February 2005]*

Section 86. Scope of Authority of Representatives

- (1) A representative shall have the right to perform, on behalf of the person represented, all procedural actions, except those that require special authorisation. If the matter of a natural person is directed through the intermediation of an authorised representative, court notifications and documents shall be sent only to the representative.
 - (2) Full or partial withdrawing of an action, varying of the subject-matter of an action, raising of a counterclaim, full or partial admitting of a claim, entering into a settlement, transferring of a matter to an arbitration court, appealing court adjudications in accordance with appellate or cassation procedure, submitting execution documents for recovery, receiving property or money adjudged, and terminating execution proceedings must be specially set out in the authorisation issued by the person represented.
 - (3) All procedural actions performed by representatives in accordance with the authorisation issued to them are binding upon the person represented.
- [19 June 2003]*

Section 87. Early Termination of Representation

- (1) Persons represented may at any time revoke the authorisation given their representative by a written notice to the court. Oral notice of revocation of authorisation may be given at a court sitting, and shall be recorded in the minutes of the court sitting.
- (2) A representative has the right to withdraw from the conducting of a matter, giving timely written notice thereof to the person represented and to the court.

Chapter 13

Authorities and Persons Participating in Procedure in Accordance With the Law

[7 April 2004]

Section 88. Participation of State or Local Government Institutions and Persons in the Procedure in order to Protect the Rights of Other Persons

- (1) In cases provided for by law, State or local government institutions and persons may submit an application to the court in order to protect the rights and lawful interests of other persons.
- (2) The institutions and persons set out in this Section may become acquainted with the materials of a matter, make application regarding removal, provide explanations, provide evidence, participate in examination of evidence, submit petitions, and appeal judgments and decisions of a court.
- (3) Withdrawal of an application by the institutions and persons set out, which has been submitted by them in accordance with Paragraph one of this Section, shall not deprive the person in whose interests the application was submitted of the right to require that the court adjudicate the matter on the merits.

Section 89. Participation of Authorities in the Procedure in order to Provide Opinions

- (1) In cases provided for by law, the court shall invite authorities to participate in the procedure, so that they may, within the scope of their competence, provide their opinion in the matter and defend the rights, and interests protected by law, of persons.
- (2) The invited authorities have the right to become acquainted with the materials of a matter, to participate in examination of evidence, to submit petitions and to provide opinions.

[7 April 2004]

Chapter 14

Public Prosecutors

Section 90. Participation of Public Prosecutors in the Civil Procedure

- (1) Public prosecutors are entitled to participate in the adjudication of a matter, if they have brought an action or submitted an application, or if their participation is compulsory.
- (2) A public prosecutor has the right to bring an action or submit an application to a court, if:
 - 1) it is necessary in order to protect the rights and interests of the State or of local governments set out in law;
 - 2) there has been violation of the rights, or interests protected by law, of persons lacking capacity to act, disabled persons, minors, prisoners or other such persons as have limited means to protect their rights; or
 - 3) in conducting an inspection of public prosecutors, a breach of law is ascertained.
- (3) Participation of the public prosecutor in adjudication of a matter is compulsory where that is prescribed by law or found necessary by the court.
- (4) A public prosecutor who participates in the adjudication of a matter has the right to become acquainted with the materials of the matter, to make application for removal, to provide evidence, to participate in the examination of evidence, to submit petitions, to provide opinions on issues arising in the course of adjudication of the matter and regarding the substance of the matter in general, to submit a protest regarding a court judgment or decision, to receive a true copy of the judgment or decision, or of other documents in the matter and to perform other procedural actions prescribed by law.

(5) If a public prosecutor is a participant in the matter, he or she has the right to submit a protest regarding a court judgment or decision in all cases where other participants in the matter have the right to appeal a judgment or decision.

(6) A public prosecutor's withdrawal from an action or application he or she has submitted to the court shall not deprive the person in whose interests the action has been brought or application submitted, of the right to require that the court adjudicate the matter on the merits.

Section 91. Withdrawal or Removal of a Public Prosecutor

(1) A public prosecutor may not deliver their opinion in a matter if in the course of a previous adjudication of the matter they have acted as a judge, party, third person, representative, expert, interpreter, or court recorder of the court sitting, as well as in cases specified in Section 19, Paragraph one, Clauses 2, 3 and 4 of this Law.

(2) Where any of the above-mentioned circumstances are present, a public prosecutor shall withdraw himself or herself prior to the commencement of the court proceedings.

(3) If a public prosecutor has not withdrawn himself or herself, participants in the matter have the right to apply for removal of the public prosecutor on the basis referred to in this Section.

(4) Removal of a public prosecutor shall be applied for and the court shall decide such application, in accordance with the procedures set out in Sections 20 and 21 of this Law.

Division Three Evidence

Chapter 15 General Provisions Regarding Evidence

Section 92. Evidence

Evidence is information on the basis of which a court determines the existence of non-existence of such facts that are significant in the adjudicating of the matter.

[31 October 2002]

Section 93. Duty Regarding Proof and Submission of Evidence

(1) Each party shall prove the facts upon which they base their claims or objections. Plaintiffs shall prove that their claims are well-founded. Defendants shall prove that their objections are well-founded.

(2) Evidence shall be submitted by the parties and by other participants in the matter. If the parties or other participants in the matter are unable to submit evidence, the court shall, at their motivated request, require such evidence.

(3) Evidence shall be submitted not later than seven days before a court sitting, unless the judge has set another time period within which evidence is to be submitted. During adjudicating of the matter evidence may be submitted at the motivated request of the party or other participants in the matter if it does not impede the adjudication of the matter or the court finds the reasons for untimely submission of evidence justified, or the evidence concerns facts which have become known during the adjudication of the matter. If a participant in a matter submits evidence after the time period thereof has ended, and the court finds that with such actions the adjudication of the matter has been delayed, the court may impose a fine up to fifty lats. A decision by the court to refuse acceptance of

evidence may not be appealed, but objections regarding such may be expressed in an appellate or cassation complaint.

(4) If the court admits that in respect of any of the facts on which the claims or objectives of the party are based no evidence is submitted, it shall notify the parties thereof and, if necessary, set a time period within which evidence is to be submitted.

[31 October 2002; 19 June 2003; 7 September 2006]

Section 94. Relevance of Evidence

The court shall accept only such evidence as is relevant to the matter.

Section 95. Admissibility of Evidence

(1) The court shall admit only such kinds of evidence as provided for by law.

(2) Facts that, in accordance with law, may be proved only by particular kinds of evidence, may not be proved by any other kinds of evidence.

Section 96. Basis for Exemption from Providing Evidence

(1) If the court acknowledges a fact to be universally known, it need not be proved.

(2) Facts established pursuant to a judgment that has come into lawful force in one civil matter need not be proved again in adjudication of other civil matters involving the same parties.

(3) In a criminal matter, a court judgment which has come into lawful effect shall be binding on a court adjudicating a matter regarding the civil legal liability of the person regarding whom the judgment was made in the criminal matter, only with respect to the issues of whether a criminal act, or failure to act, occurred and whether such has been committed, or respectively been allowed, by the same person.

(4) Facts, which in accordance with law are deemed to be established, need not be proved. Such assumption may only be disputed in accordance with general procedures.

(5) A party need not prove the facts, which in accordance with the procedures set out in this Law, have not been disputed by the other party.

[31 October 2002]

Section 97. Assessment of Evidence

(1) A court shall assess the evidence in accordance with its own convictions, which shall be based on evidence as has been thoroughly, completely and objectively examined, and in accordance with judicial consciousness based on the principles of logic, scientific findings and observations drawn from every-day experience.

(2) No evidence shall have a predetermined effect as would be binding upon the court.

(3) A court shall set out in its judgment why it has given preference to one body of evidence in comparison to another, and has found certain facts as proven, but others as not proven.

Chapter 16

Securing of Evidence

Section 98. Allowing Evidence to be Secured

- (1) If a person has cause to believe that the submission of necessary evidence on their behalf may later be impossible or problematic, they may ask for such evidence to be secured.
 - (2) Applications for securing evidence may be submitted at any stage of the proceedings, as well as prior to the bringing of an action to a court.
 - (3) Prior to the matter being initiated, evidence shall be ensured by the district (city) court in the territory of which the source of evidence to be ensured is located. After the initiation of the matter the court adjudicating the matter shall secure the evidence.
- [14 December 2006]

Section 99. Applications for Securing Evidence

There shall be set out in an application regarding the securing of evidence:

- 1) the given name and surname of the applicant, the matter in which the securing of evidence is required, or the potential participants therein;
- 2) the evidence it is necessary to secure;
- 3) the facts for the proving of which this evidence is necessary; and
- 4) the reasons why the applicant is requesting the securing of evidence.

Section 100. Procedures by which Applications for Securing of Evidence Prior to Initiation of the Matter in a Court are Decided

- (1) The application for securing evidence shall be decided by a court or a judge within ten days of its receipt.
- (2) If the application for securing evidence is decided by a court, the applicant and potential participants in the matter shall be summoned to the court sitting. The failure of such persons to attend is not an impediment to the adjudicating of the application submitted.
- (3) With a decision by a judge, evidence without summoning potential participants in the matter may be ensured only in emergency cases, including emergency copyright and neighbouring rights, database protection (*sui generis*), trade marks and geographical origin indicators, patents, samples of designs, plant varieties, and topography of semiconductor products (hereinafter – intellectual property rights) violations or cases of possible violations or in cases, where it cannot be specified who shall be participants in the matter.
- (4) If a decision regarding the securing of evidence has been taken without the presence of the potential defendant or the other participants in the matter, they shall be notified regarding such decision not later than by the moment of the execution of the referred to decision.
- (5) Examination of witnesses, as well as inspection on site and expert-examination, shall be carried out in accordance with the applicable norms of this Law.
- (6) In satisfying an application for securing evidence prior to bringing an action, the judge shall determine the time period for the submission of the action application not longer than 30 days.
- (7) In satisfying an application for securing evidence prior to bringing an action, the judge may request that the potential plaintiff pay in a specified amount of money into the bailiff's deposit account or provide an equivalent guarantee to ensure coverage of the losses, which may be caused to the defendant in relation to the securing of evidence.

(8) The minutes of the court sitting and the material collected in the course of securing the evidence shall be kept until required by the court that adjudicates the matter.

(9) An ancillary complaint may be submitted in regard to a decision by a judge to reject an application regarding the securing of evidence or the decision referred to in Paragraph three of this Section. If the decision regarding the securing of evidence has been taken without the presence of the participants in the matter, the time period for the submission of the ancillary complaint shall be counted from day of the issuance or sending of the decision.

[7 April 2004; 14 December 2006]

Section 101. Procedures for Examination of Applications for Ensuring Evidence after Initiation of the Matter in a Court

(1) An application for ensuring evidence shall be examined at a court sitting in accordance with the relevant norms of this Law.

(2) The applicant and other participants in the matter shall be notified of the time and place of the sitting. The failure of such persons to attend is not an impediment to the adjudicating of the application regarding securing of evidence.

Section 102. Court Assignments

(1) If the court adjudicating a matter is unable to collect evidence located in another city or district, the court or the judge shall assign the performing of specific procedural activities to the appropriate court.

(2) In the decision regarding the court assignment, there shall be a succinct description of the substance of the matter to be adjudicated, circumstances to be clarified, and the evidence that the court performing the assignment is required to collect. Such a decision shall be mandatory for the court to which it is addressed and shall be performed within fifteen days.

[31 October 2002]

Section 103. Procedures regarding the Performing of Court Assignments

(1) Court assignments shall be performed at a court sitting in accordance with the procedures prescribed by this Law. Participants in the matter shall be notified of the time and place of the sitting. The failure of such persons to attend is not an impediment to performance of the assignment.

(2) Minutes and other material of the matter, which have been collected during the performance of the assignment, shall be forwarded to the court adjudicating the matter within three days.

Section 103.¹ Termination of Securing of Evidence

If a decision regarding the securing of evidence has been taken prior to the bringing of an action and the action is not brought within the time period specified by the court, the judge on the basis of the receipt of an application from the potential plaintiff or defendant shall take a decision regarding the revoking of the securing of evidence.

[14 December 2006]

Section 103.² Compensation of Losses caused by the Securing of Evidence

A defendant is entitled to claim compensation for losses, which he or she has incurred in relation to the securing of evidence if the securing of evidence has been revoked in the case specified in Section 103.¹ of this Law if against him or her the action brought was refused, left not proceeded with or court proceedings were terminated in the cases specified in Section 223, Clauses 2 and 4 of this Law.

[14 December 2006]

Chapter 17 Evidentiary Means

Section 104. Explanations by Parties and Third Persons

(1) Explanations by parties and third persons which include information about facts on which their claims or objections are based, shall be admitted as evidence, if corroborated by other evidence verified and assessed at a court sitting.

(2) If one party admits the facts on which the claims or objections of the other party are based, a court may find such facts to be proven, if the court is not in doubt that the admission was not made due to the effects of fraud, violence, threat or error, or in order to conceal the truth.

Section 105. Testimony of Witnesses

(1) A witness is a person who has knowledge of facts related to the matter and who has been summoned by the court to a court sitting.

(2) Where a participant in a matter requests the examining of a witness, they shall indicate what facts relevant to the matter the witness may affirm.

(3) A witness who has been called to court does not have the right to refuse to give testimony, except in the matters prescribed in Sections 106 and 107 of this Law.

(4) A witness may only be questioned regarding facts relevant to the instant matter.

(5) Testimony based on information from unknown sources, or on information obtained from other persons, unless such persons have been examined, is not allowable as evidence.

Section 106. Persons who may not be Witnesses

The following persons may not be summoned or examined as witnesses

1) ministers – regarding facts, which have come within their knowledge through hearing confessions, and persons whose position or profession does not permit them to disclose certain information entrusted to them – regarding such information;

2) minors – regarding facts that testify against their parents, grandparents, brothers or sisters;

3) persons whose physical or mental deficiencies render them incapable of appropriate assessment of facts relevant to the matter; and

4) children under the age of seven.

Section 107. Persons who may Refuse to Testify

(1) The following persons may refuse the duty to testify:

- 1) relatives in a direct line and of the first or second degree in a collateral line, spouses, affinity relatives of the first degree, and family members of parties;
 - 2) guardians and trustees of parties, and persons under guardianship or trusteeship of the parties; and
 - 3) persons involved in litigation in another matter against one of the parties.
- (2) The court shall explain to the above-mentioned persons their right to refuse to testify.

Section 108. Duties of Witnesses

- (1) A person called as a witness shall attend at the court and give true testimony regarding facts of which they have knowledge.
- (2) A witness shall answer questions asked by the court and participants in the matter.
- (3) A court may question a witness at their place of residence, if the witness is unable to attend pursuant to a court summons because of illness, old age, invalidity or other justified cause.

Section 109. Liability of Witnesses

- (1) For refusal to testify for reasons which the court has found unjustified, and for intentionally providing false testimony, a witness is liable in accordance with the Criminal Law.
- (2) If a witness, without justified cause, fails to attend pursuant to a summons by a court or a judge, the court may impose a fine not exceeding forty lats on him or her, or have them brought to court by forced conveyance.

Section 110. Documentary Evidence

Documentary evidence is information regarding facts relevant to the matter, which information is recorded by letters, figures or other written symbols or use of technical means in documents, in other written or printed matter, or in other relevant recording media (audio and video tapes, computer diskettes etc.).

Section 111. Procedures for Submitting Documentary Evidence

- (1) In submitting documentary evidence to a court, or requesting the requiring of such evidence, participants in a matter shall indicate what meaningful facts in the matter such evidence can attest to.
- (2) Documentary evidence shall be submitted by way of original documents, or true copies certified in accordance with prescribed procedures. A judge may also certify a true copy. If a part of a written document or of other written or printed matter is sufficient to clarify facts meaningful in the matter, a certified extract from such may be submitted to the court.
- (3) Original documents, as well as documentary evidence certified in accordance with prescribed procedures, shall be submitted if laws or international treaties binding on the Republic of Latvia provide that the particular facts may be proven only with original documents or with true copies certified in accordance with prescribed procedures.
- (4) If a true copy of or an extract from documentary evidence has been submitted to a court, the court is entitled to require, pursuant to the substantiated request of participants in the matter or upon its own initiative, that the original be submitted if that is necessary for the determining of facts in the matter.

Section 112. Procedure for Requiring Documentary Evidence

(1) A court or a judge is entitled to require, pursuant to a substantiated request from a participant in the matter, documentary evidence from State and local government institutions and from other natural or legal persons.

(2) Participants in a matter, who request the court to require documentary evidence, shall describe such evidence and provide their reasons for presuming that the evidence is in the possession of the person referred to.

(3) State and local government institutions and other natural or legal persons which cannot submit the required documentary evidence, or cannot submit such within the time limit specified by the court or the judge shall notify the court thereof in writing, stating their reasons.

(4) If a party refuses to submit the documentary evidence required to the court, without denying that the party possesses such evidence, the court may find as proved facts which the opposite party sought to prove by referring to such documentary evidence.

[31 October 2002]

Section 113. Return of Documentary Evidence in a Matter

Pursuant to a substantiated written application from the person who has submitted the originals of documentary evidence, the court shall return such evidence to this person after the court judgment has come into lawful effect. If such evidence has been referred to in a judgment or decision of the court, true copies of the documentary evidence certified by the judge shall remain in the matter file.

Section 114. Inspection of Documentary Evidence at the Place of Keeping

If it is impossible or problematic to submit to the court documentary evidence because of the amount or volume thereof or for other reasons, the court may perform an inspection and examination of documentary evidence at the place where it is kept.

[31 October 2002]

Section 115. Real Evidence

Real evidence consists of tangible things that may, due to their properties, characteristics or very existence, be useful in clarifying facts, which are significant in a matter.

Section 116. Submitting and Requiring Real Evidence

(1) A participant in a matter, who submits real evidence to a court or requests that such evidence be required, shall indicate what facts significant in the matter such evidence can attest to.

(2) Participants in a matter, who request the court to require real evidence shall describe such evidence and indicate their reasons for presuming that the evidence is in the possession of the person referred to.

(3) A court or a judge has the right to require, pursuant to a substantiated request from a participant in the matter, real evidence from State and local government institutions and from other natural or legal persons.

(4) State and local government institutions and other natural or legal persons which cannot submit the required real evidence, or cannot submit such within the time limit specified by the court or the judge, shall notify the court thereof in writing, stating their reasons.

[31 October 2002]

Section 117. Inspection of Real Evidence at the Place of Keeping

If it is impossible or problematic to submit real evidence to the court because of the amount or volume thereof or for other reasons, the court may perform inspection and examination of the real evidence at the place where it is kept or assign performance thereof to a bailiff.

[31 October 2002]

Section 118. Storage of Real Evidence

(1) Real evidence shall be appended to the matter file or kept at the real evidence storage facility of the court.

(2) Objects that cannot be delivered to the court shall be kept at their current location. These shall be described and, if necessary, photographed or filmed. The descriptions and recorded images shall be appended to the matter file.

(3) Real evidence that deteriorates rapidly shall be inspected by the court without delay, and participants in the matter shall be notified. After the inspection such real evidence shall be returned to the persons from whom it was obtained.

Section 119. Return of Real Evidence

(1) After a court judgment has come into legal effect, real evidence shall be returned to the persons from whom it was obtained, or transferred to persons who, in accordance with the court judgment, have the right to these things.

(2) Real evidence that may not, in accordance with law or the court judgment, be returned to participants in the matter or persons, from whom it was obtained, shall be transferred by the court to relevant State institutions.

(3) In individual cases real evidence may be returned before the judgment has come into legal effect, provided that this is not detrimental to the adjudicating of the matter.

Section 120. Liability for Failure to Submit Documentary and Real Evidence

If a court has not been notified that the required documentary or real evidence cannot be submitted or has not been submitted for reasons that the court has found to be unjustified, the court may impose a fine, not exceeding twenty-five lats, upon the person at fault. Payment of the fine shall not release such person from the duty to submit the evidence required by the court.

Section 121. Expert-Examination

(1) A court shall order expert-examination in a matter, pursuant to the request of a party, where clarification of facts relevant to the matter requires specific knowledge in science, technology, art or another field. If necessary, a court may order several such examinations.

(2) Expert-examination shall be performed by experts of relevant expert-examination institutions or by other specialists. The parties shall select the expert, by mutual agreement, but if agreement is not

reached within the time limit set by the court, the expert shall be selected by the court. If necessary, several experts may be selected.

(3) Participants in a matter have the right to submit to the court issues regarding which expert opinion must, in their opinion, be provided. The court shall determine issues requiring an expert opinion. The court shall indicate grounds for rejection of issues submitted by participants in a matter.

(4) A court decision regarding the ordering of expert-examination shall specify what issues an expert opinion is required in regard to and whom the performing of the expert-examination has been assigned to.

(5) Expert-examination shall be performed in the court, or outside the court if its performance in the court is not possible or is problematic.

Section 122. Duties and Rights of Experts

(1) A person selected as an expert shall attend pursuant to a court summons.

(2) If an expert who has been summoned fails to attend the court sitting for reasons that the court finds unjustified, the court may impose a fine, not exceeding forty lats, upon the expert.

(3) An expert has the right to review materials in the matter, to question the participants and witnesses in the matter, and to ask the court to require additional materials.

(4) An expert shall provide an objective opinion, in their own name, and shall be personally liable for it.

(5) An expert may refuse to provide an opinion, if the material provided for their examination is not sufficient, or if the questions asked are beyond the scope of the special knowledge of the expert. In such cases the expert shall notify the court, in writing, that it is not possible to provide an opinion.

(6) For refusal to perform their duty without justified cause, or for knowingly providing a false opinion, the expert shall be liable in accordance with the Criminal Law.

Section 123. Withdrawal or Removal of an Expert

(1) An expert may not participate in the adjudicating of a matter, if they have previously been a judge or a participant in the adjudicating of the matter, and in cases as provided for in Section 19, Paragraph one, Clauses 2, 3 and 4 of this Law.

(2) An expert also may not participate in the adjudicating of a matter if:

1) they are or have been, due to their position or otherwise, dependent on a party or another participant in the matter;

2) there has been, prior to the initiation of the court proceedings, a connection between a party in the matter being adjudicated and the performance of professional duties by this expert; or

3) it is determined that the expert is not competent.

(3) Where the aforementioned facts exist, the expert shall withdraw prior to the commencement of the adjudicating of the matter.

(4) If the expert does not withdraw, participants in the matter shall have the right to apply for removal of the expert on the bases referred to in this Section.

(5) Removal of an expert shall be applied for, and a decision made by the court in regard thereto, in accordance with the procedures prescribed in Sections 20 and 21 of this Law.

Section 124. Expert Opinion

(1) An expert opinion shall be reasoned and the basis thereof provided.

(2) An opinion shall be stated in writing and submitted to the court. There shall be included in an expert opinion a precise description of the examination performed, conclusions formed as a result thereof, and reasoned answers to the questions asked by the court. If, in performing the expert-examination, an expert ascertains facts as are significant in the matter and the expert has not been questioned regarding them, he or she has the right to indicate such facts in their opinion.

(3) If several experts are selected, they have the right to consult with one another. If the experts reach a common opinion, all the experts shall sign it. If the opinions of the experts differ, each expert shall write a separate opinion.

Section 125. Assessment of Expert Opinion

(1) The court shall assess expert opinions in accordance with the provisions of Section 97 of this Law.

(2) If the expert opinion is not clear enough or is incomplete, a court may order a supplementary expert-examination, assigning performance thereof to the same expert.

(3) Where an expert opinion is not substantiated, or the opinions of several experts contradict one another, the court may order a repeated expert-examination, assigning performance thereof to another expert or experts.

Section 126. Opinions of Authorities

An opinion of an authority, summoned in accordance with the procedures set out in Section 89 of this Law, shall be assessed by the court as evidence. Reasons for a court's disagreement with such opinion shall be set out in the adjudication made in the matter.

[7 April 2004]

Part B Court Proceedings in a Court of First Instance

Division Four Court Proceedings by Way of Action

Chapter 18 Bringing of Actions

Section 127. Persons who may Bring Actions in Court

(1) Any natural person who has reached legal age and has the capacity to act, as well as any legal person, may bring action in court to protect their infringed or disputed rights of a civil nature.

(2) Actions in the interests of minors or persons under trusteeship shall be brought by the legal representatives of such persons, but in cases provided for in Section 72, Paragraph four of this Law, actions may be brought by minors themselves.

(3) A public prosecutor, State or local government institutions, or persons entitled by law to protect the rights or lawful interests of other persons in court, may bring an action in order to protect rights of a civil nature of such persons where such rights are infringed or in dispute.

Section 128. Statement of Claim

(1) An action shall be brought by submitting a written statement of claim to the court.

(2) There shall be set out in a statement of claim:

- 1) the name of the court to which the statement of claim is submitted;
- 2) the given name, surname, personal identity number and place of residence of plaintiffs, and of the plaintiff's representative where the action is brought by the representative, the defendant and third person, but for legal persons – their name, registration number and location (legal address). The personal identity number or registration number of the defendant shall be included, if such is known;
- 3) the subject-matter of the claim;
- 4) the amount of the claim, if the claim can be assessed in terms of money, as well as a calculation of the amount being recovered or disputed;
- 5) the facts on which the plaintiff bases his or her claim, and evidence, which corroborates such facts;
- 6) the law on which the claim is based;
- 7) the claims of the plaintiff;
- 8) a list of documents appended to the statement of claim; and
- 9) the date of preparing the statement of claim and other information, if such information is necessary for the adjudicating of the matter.

(3) The statement of claim shall be signed by the plaintiff or their representative. If an action is brought on behalf of the plaintiff by their representative, the statement of claim shall be accompanied by a power of attorney or other document confirming the authorisation of the representative to bring the action.

Section 129. Documents to be Appended to a Statement of Claim

(1) A statement of claim shall be submitted to the court, appending therewith as many true copies as there are defendants and third persons in the matter.

(2) There shall be appended to a statement of claim, documents which confirm:

- 1) payment of State fees and other court costs in accordance with the procedures and in the amounts set out by law;
- 2) compliance with procedures regarding preliminary extrajudicial examination of the matter, where such examination is prescribed by law; and
- 3) facts on which the claim is based.

(3) A judge may, depending on the circumstances and nature of the matter, impose a duty upon a plaintiff to submit true copies of the documents appended to the statement of claim in order that they be sent to the defendant and third persons.

Section 130. Submission of a Statement of Claim to the Court

(1) A statement of claim shall be submitted to a court of first instance in accordance with the provisions regarding jurisdiction.

(2) A statement of claim may be submitted by the plaintiff in person, or by a person authorised by the plaintiff. A statement of claim may also be sent by mail.

(3) An authorisation for the submitting of a statement of claim may be included in the statement of claim itself.

Section 131. Taking a Decision Regarding Acceptance of a Statement of Claim and Initiation of a Civil Matter

Upon receipt of a statement of claim in court, a judge shall take a decision within three days regarding:

- 1) acceptance of the statement of claim and initiation of a matter;
- 2) refusal to accept the statement of claim; or
- 3) leaving the statement of claim not proceeded with.

Section 132. Reasons for Non-Acceptance of a Statement of Claim

(1) A judge shall refuse to accept a statement of claim if:

- 1) the dispute is not within the jurisdiction of the court;
- 2) the action has been brought by a person who does not have the right to bring an action;
- 3) the parties have, in accordance with procedures set out by law, agreed to transfer of the dispute for it to be adjudicated by an arbitration court;
- 4) there is already a matter pending before the same court or another court, concerning a dispute between the same parties, regarding the same subject-matter, and on the same basis;
- 5) in a dispute between the same parties, regarding the same subject-matter, and on the same basis, a court judgment or decision has come into lawful effect to terminate the court proceedings because of the withdrawal of the action by the plaintiff, or confirmation of a settlement between the parties;
- 6) the matter is not within the jurisdiction of this court;
- 7) the plaintiff has not complied with the procedures in regard to preliminary extrajudicial examination determined for the respective category of matter, or has not taken the measures prescribed by law to resolve the dispute with the defendant prior to action being brought;
- 8) the statement of claim has been submitted by a person without the capacity to act, or by a person for whom trusteeship has been established in accordance with the provisions of Section 365 of The Civil Law; or
- 9) the statement of claim has been submitted on behalf of a person who does not have the authority to do so in accordance with procedures set out by law.

(2) A judge shall take a reasoned decision regarding refusal to accept a statement of claim. The decision, together with the submitted statement of claim, shall be issued to the plaintiff.

(3) A decision may be appealed in accordance with procedures set out in this Law.

(4) Refusal by a judge to accept a statement of claim on the basis of Paragraph one, Clauses 6-9 of this Section is not an impediment to the submitting of the same statement of claim to the court after the deficiencies in regard to it have been eliminated.

Section 133. Leaving a Statement of Claim Not Proceeded With

(1) A judge shall leave a statement of claim not proceeded with if:

- 1) there are not set out in the statement of claim all of the particulars prescribed in Section 128 of this Law; or
- 2) there are not appended to the statement of claim the documents prescribed in Section 129 of this Law.

(2) A judge shall take a reasoned decision regarding leaving a statement of claim not proceeded with, send such decision to the plaintiff and set a time limit for rectifying the deficiencies. Such time limit shall be not less than 20 days, counting from the day the decision is sent. The decision of

a judge may be appealed in accordance with the procedures prescribed in this Law. The time limit for appeal shall be counted from the day when the plaintiff receives the decision.

(3) If a plaintiff rectifies the deficiencies within the time limit set, the statement of claim shall be regarded as submitted on the day when it was first submitted to the court.

(4) If a plaintiff does not rectify the deficiencies within the time limit set, the statement of claim shall be considered to not have been submitted and shall be returned to the plaintiff.

(5) Return of a statement of claim to the plaintiff shall not be an impediment to the repeated submission thereof to the court in compliance with the general procedures in regard to submitting statements of claim prescribed in this Law.

Section 134. Joinder of Claims and Civil Matters

(1) A plaintiff has the right to join several mutually related claims in one statement of claim.

(2) If there are before a court more than one similarly constituted matters, involving the same parties, or matters where one plaintiff is bringing an action against several defendants, or several plaintiffs are bringing actions against one and the same defendant, a judge is entitled to join such matters in the same court proceeding, provided such joinder favours quicker and a more correct adjudication of the matters, and the parties do not object.

Section 135. Separation of Claims and Civil Matters

(1) A judge may require a plaintiff to separate out, into a separate action, one or several claims from claims that have been joined, if he or she finds that separate adjudication of such claims will be more appropriate.

(2) The court adjudicating a matter may, pursuant to a decision made by it, separate out, into a separate matter, one or several claims from claims that have been joined, if their adjudication in a single proceeding has become difficult or impossible.

Section 136. Bringing Counterclaims

(1) A defendant is entitled, up to the moment of the closing of adjudication on the merits in a court of first instance, to bring a counterclaim against the plaintiff.

(2) A counterclaim shall be brought in accordance with the general provisions regarding bringing of actions.

(3) A court shall accept a counterclaim if:

1) a mutual set-off is possible as between the claims in the initial action and the counterclaim;

2) allowing the counterclaim would exclude, fully or partly, the allowing of the claims in the initial action; or

3) the counterclaim and the initial actions are mutually related, and their joint examination would favour a more quicker and correct adjudication of the matter.

(4) A counterclaim accepted by a court shall be adjudicated together with the claims in the initial action.

[19 June 2003]

Chapter 19

Securing Claims

Section 137. Basis for Securing Claims

(1) If there is reason to believe that the execution of a court judgment in a matter may become problematic or impossible, a court or a judge may, pursuant to a reasoned application by the plaintiff, take a decision regarding the securing of a claim. There shall be set out in an application regarding the securing of a claim, the means by which the claim is to be secured.

(2) Securing of claims may be allowed only in claims of a financial nature.

(3) The examination of the issue of securing of a claim may be allowed at any stage of the proceedings, as well as prior to the bringing of court action.

[7 September 2006]

Section 138. Means of Securing Claims

(1) The means by which claims may be secured are:

1) attachment of movable property and monetary funds of the defendant;

2) entering of a prohibitory endorsement in the register of the respective movable property or any other public register;

3) entering of an endorsement regarding the securing of a claim in the Land Register or Ship Register;

4) arrest of a ship;

5) enjoining the defendant from performing certain actions;

6) attachment of payments (also deposits in credit institutions), which are due from third persons; and

7) postponement of execution activities (also enjoining bailiffs from transferring money or property to a judgment creditor or debtor, or suspending of sale of property).

(2) In securing a claim by entering of a prohibitory endorsement in the register of the respective movable property or any other public register, the decision shall indicate the way in which the prohibition shall be entered.

(3) If the subject-matter of an action is ownership rights with respect to movable property or immovable property, or the action is directed towards attaining the securing of rights, the securing of the claim shall be made by attaching the disputed movable property or by entering a prohibitory endorsement in the respective immovable property division of the Land Register.

(4) If the subject-matter of an action is property rights in regard to immovable property, the securing of the claim shall be made by entering an encumbrance endorsement in the respective immovable property division of the Land Register.

(5) If the subject-matter of an action is a monetary claim, the securing of such claim with immovable property shall be done by entering a pledge rights endorsement in the respective immovable property division of the Land Register.

(6) Arrest upon a ship shall be applied only for maritime claims.

(7) Suspension of sale of property shall not be allowed in matters where a claim is brought regarding the recovery of money.

(8) In satisfying an application for the securing of a claim, there shall be set out in the decision the amount to which the security extends, but this shall not exceed the amount claimed.

(9) Simultaneous application of several means of securing claims may be allowed, taking into account the provisions of Paragraph eight of this Section.

[31 October 2002; 12 February 2004; 7 September 2006]

Section 139. Securing of Claims Prior to the Bringing of an Action

(1) A potential plaintiff may petition for securing of their claim prior to bringing a court action, and even before an obligation has become due, if the debtor, with the purpose of avoiding performance of their obligation, removes or alienates their property, leaves their place of residence without informing the creditor, or performs other actions which evidence that the debtor is not acting in good faith. When submitting an application for securing a claim prior to bringing a court action, the potential plaintiff shall submit evidence that confirms their rights on the basis of obligations and the necessity of securing the claim.

(2) An application for the securing of a claim before an action is brought shall be submitted to the court in which the action, regarding the claim sought to be secured, is to be brought. If the parties have agreed to submit the dispute to an arbitration court, an application shall be submitted to a court in accordance with the location of the debtor or their property.

(3) In satisfying an application regarding the securing of a claim prior to action being brought, a judge shall set a time period for the plaintiff within which they must submit a statement of claim to the court.

[31 October 2002; 19 June 2003; 7 September 2006]

Section 140. Adjudication regarding Securing of Claims Issues

(1) A decision regarding an application for securing a claim shall be taken by a court or a judge not later than the day following receipt thereof, without giving prior notice to the defendant and other participants in the matter.

(2) In satisfying an application regarding securing of a claim, a court or judge may require that the plaintiff secure losses which the defendant may suffer because of the claim enforcement, by assigning a certain sum of money to be deposited into the bailiff's deposit account.

(3) On the basis of an application by a participant in the matter, a court may replace the specified means of securing a claim with other means.

(4) In matters in which the subject-matter of an action is a monetary claim, if the defendant has paid into the secured claim amount into the bailiff's deposit account, the court or judge shall replace the accepted means of securing a claim with an attachment of the paid in monetary funds. The replacement of attached movable property with money by paying in a secured claim amount into the bailiff's deposit account shall be deemed to be the replacement of a means of securing a claim.

(5) The securing of a claim may be revoked by the same court on the basis of an application by the parties.

(6) In rejecting a claim, the securing of a claim shall be revoked in the court judgment. The securing of a claim is preserved until the day the judgment comes into lawful effect.

(7) If a claim is left unadjudicated or proceedings are terminated, in the court decision the securing of a claim shall be revoked. The securing of a claim is preserved until the day the judgment comes into lawful effect.

(8) If the decision regarding the securing of a claim has been taken prior to bringing a court action and in the time period specified by the court a court action has not been brought, the judge on the basis of the receipt of an application from the potential plaintiff or defendant shall take a decision regarding the revocation of the security.

(9) The applications referred to in Paragraphs three and five of this Section shall be decided in a court sitting, previously notifying the participants in the matter of this. The non-attendance of such persons shall not be an obstacle to the adjudication of the application.

[7 September 2006]

Section 141. Appeal of Decisions taken regarding Securing of Claims Issues

(1) An ancillary complaint may be submitted in regard to the decisions referred to in Section 140, Paragraphs two, three and five of this Law and the decision with which the application for the securing of evidence is refused.

(2) If a decision regarding securing of a claim has been taken in the absence of a participant in the matter, the time period for submitting a complaint shall be calculated from the day the participant receives such decision.

[31 October 2002; 7 September 2006; 14 December 2006]

Section 142. Execution of Decisions taken regarding Securing of Claims Issues

(1) A decision regarding the securing of a claim (Section 140, Paragraph one) shall be executed immediately after it is made. The submission of an ancillary complaint regarding such decision shall not stop the implementation thereof.

(2) A decision regarding the securing of a claim, which has been taken on the conditions specified in Section 140, Paragraph two of this Law, shall be executed after the plaintiff has paid into a bailiff's deposit account the amount specified by the court or judge. The execution documents or a true copy of the decision referred to in Paragraph three of this Section shall be issued after the amount specified by the court has been paid in.

(3) If a claim is secured with immovable property or a ship, or by entering a prohibitory endorsement in a movable property register or any other public register, the court shall issue the plaintiff a true copy of the respective decision with an notation thereon that a true copy of the decision has been issued for the entering of an endorsement in the Land Register, a movable property register or any other relevant public register, but in the case of arrest of a ship – for the detention of the ship in a port.

(4) A decision regarding the securing of a claim by attachment of movable property or monetary funds belonging to the defendant, and which is in the possession of the defendant or a third person shall be executed in accordance with the procedures set out in Chapter 71 of this Law.

(5) In attaching payments, which are due to the defendant from third persons in accordance with a contract (also deposits in credit institutions or other rights of action against the credit institution), the bailiff on the basis of the execution document shall send to such person a request to notify if he or she has a duty to pay any amounts to the defendant, in what amount and time period, as well as to notify that such amounts shall be attached in the amount of the claim, and give an order to pay in the payments the time period of which has come into effect (also sight deposits), into the bailiff's deposit account. Attached payments may be paid out to other persons only in conformity with the calculations of the bailiff who first performed the attachment of the payments.

(6) A decision regarding the securing of a claim by prohibiting the defendant from performing certain actions shall be executed by a bailiff who shall notify the defendant or the relevant third person of the court decision, for which they shall sign, or by sending it by registered mail.

(7) If in matters in which the subject-matter of an action is a monetary claim, the defendant has paid in the claim amount into the bailiff's deposit account, the bailiff shall release from attachment the attached movable property.

(8) The revocation of the means of securing of a claim applied if the securing of the claim is revoked shall be executed on the basis of an order by the bailiff who executed the decision regarding the securing of the claim.

(9) A decision regarding the replacement of a means of securing of a claim shall be executed by a bailiff, firstly securing the claim with the replacement means of securing of a claim and afterwards revoking the replaced means of securing of a claim.

[31 October 2002; 19 June 2003; 7 September 2006]

Section 143. Compensation for Losses Caused by Securing of a Claim

If a claim made against a defendant is dismissed, the defendant is entitled to demand compensation for losses they have incurred due to the securing of the claim.

Section 144. Setting Aside of Security for a Claim [7 September 2006]

Section 145. Termination of Security for a Claim [7 September 2006]

Section 146. Appeal of a Decision [7 September 2006]

Chapter 20 Preparation of Civil Matters for Trial

[30 October 2002]

Section 147. Preparation of Civil Matters for Trial

(1) In order to ensure timely adjudication of a matter, the judge subsequent to receipt of a statement of claim shall prepare the matter for trial.

(2) Participants in the matter have a duty to participate in preparation of the matter for trial: to answer within the time periods set by the judge his or her requests, to submit written explanations, the necessary evidence and to attend the court pursuant to the summons of the judge.

[30 October 2002]

Section 148. Sending of a Statement of Claim and Attached Documents to the Defendant

(1) After a matter is initiated, the statement of claim and true copies of documents attached thereto (Section 129, Paragraph three) shall be sent, without delay, to the defendant by registered mail, therewith setting the time period for submitting a written explanation — 15-30 days from the day the statement of claim was sent.

(2) In the explanation the defendant shall state:

- 1) whether he or she admits the claim fully or in a part thereof;
- 2) his or her objections against the claim and substantiation thereof;
- 3) evidence corroborating his or her objections against the claim and their substantiation, as well as the law on which they are based;
- 4) petitions regarding acceptance of evidence or requiring thereof; and
- 5) other facts which he or she considers significant in adjudicating of the matter.

(3) The defendant shall attach to the explanation true copies thereof in conformity with the number of participants in the matter and written evidence corroborating the facts on which the objections are based.

(4) After receipt of the explanation a true copy thereof shall be sent without delay to the plaintiff and third persons. If the judge finds it necessary, he or she has the right to request from the plaintiff a response regarding the explanation.

[30 October 2002; 7 September 2006]

Section 149. Actions of a Judge in Preparing a Matter for Trial

(1) After receipt of the explanation or expiry of the time period set for the submission thereof the judge shall decide on the actions for preparation of the matter to be able to adjudicate it in a court sitting.

(2) In preparing a matter for trial the judge shall strive to reconcile the parties.

(3) In preparing a matter for trial the judge shall rule on the petitions of participants in the matter regarding:

- 1) invitation or admission of third persons;
- 2) provision of evidence;
- 3) summoning of witnesses;
- 4) ordering of an expert-examination; and
- 5) acceptance or requiring of documentary and real evidence.

(4) The judge is entitled to require from the participants in the matter written explanations in order to clarify circumstances of the matter and evidence. Explanations and evidence shall be submitted within the time period specified by the judge.

(5) The judge shall decide the issue regarding participation in the matter of representatives from State and local government institutions and of a public prosecutor, in cases provided for by law, regarding sending of assignments to other courts, as well as perform other necessary procedural actions.

(6) For the performance of the actions specified in this Section the judge may order a preparatory sitting to which the parties and third persons shall be summoned.

(7) If a preparatory sitting is not required the judge shall set the date and time of the court sitting and the persons to be summoned and summonsed to court.

(8) In matters regarding the reinstatement of an employee in work and matters regarding the annulment of an employer's notice of termination, the date of the court sitting shall be determined not later than 15 days after the receipt of explanations or the end of the time period for the submission thereof or after a preparatory sitting.

(9) In matters regarding the determination of the amount of compensation in cases of the compulsory alienation of immovable property, the date of the court sitting shall be determined within a period of 15 days after the receipt of explanations or the end of the time period for the submission thereof or after a preparatory sitting.

[30 October 2002; 7 April 2004; 9 June 2005]

Section 149.¹ Preparatory Sitting

(1) During a preparatory sitting the judge shall interview participants in the matter regarding the substance of the matter in order to clarify the subject-matter and limits of the dispute, explain to the participants in the matter their procedural rights and duties, the consequences of performing or failing to perform procedural actions, decide issues provided for in Section 149, Paragraphs three, four and five of this Law, strive to reconcile the parties, if necessary, set a time period by which separate procedural actions shall be performed.

(2) If the date of a court sitting has not been set in advance, during the preparatory sitting the judge shall set the date and time of the court sitting and notify the present participants in the matter

thereof for which they shall sign, as well as specify the persons to be summoned and summonsed to the court sitting.

(3) Minutes shall be taken of the preparatory sitting. The minutes shall specify the information regarding the proceedings of the sitting, the substance of the explanations by the participants in the matter and the decisions taken by the judge.

[30 October 2002]

Section 150. Liability of Participants in a Matter

(1) If a participant in a matter without a justified reason fails to submit explanations, does not reply to a request by the judge within the time period set by the judge, the judge may impose a fine not exceeding 50 lats on him or her.

(2) If a participant in a matter without a justified reason fails to attend the preparatory sitting, the judge may impose a fine not exceeding 50 lats on him or her.

(3) If the defendant has failed to submit explanations, has failed to attend the preparatory sitting and has failed to notify the reason for his or her failure to attend, the court at the request of the plaintiff may render a default judgment at the preparatory sitting.

[30 October 2002]

Chapter 21 Trial of Civil Matters

Section 151. Court Sitzings

(1) Matters shall be tried at a court sitting presided over by a judge.

(2) A judge shall conduct the trial of a matter so as to ensure equal opportunity for all participants in a matter to participate in the determining of the facts in the matter.

(3) In the course of the trial of a matter, the judge shall strive to reconcile the parties.

Section 152. Procedures in Court Sitzings

(1) Participants in a matter, witnesses, experts and interpreters shall, during a court sitting, follow the procedures prescribed in this Law and shall, without objection, comply with the orders of the judge and decisions of the court.

(2) Persons present in the court room of a court shall behave so as not to disrupt the course of the court sitting.

(3) The course of the trial of a matter may be written down or otherwise recorded, without the procedures of the court sitting being disturbed. Photography, filming or videotaping at a court sitting shall be allowed only with the permission of the court. Before deciding such issue, the court shall hear the opinion of the participants in the matter.

(4) The number of persons to be admitted to the court room of a court shall be determined by the court according to the number of places in the room. Relatives of parties and representatives of mass media shall have priority to be present at the adjudication of a matter.

(5) Upon the entrance of the court into the court room and the departure of the court therefrom, all persons present in the court room shall rise.

(6) While providing explanations and opinions to the court, submitting petitions or giving evidence, the participants in the matter, witnesses and experts shall stand up. Derogation from this provision shall be allowed only with the permission of the judge.

(7) All persons present in the courtroom of the court shall stand up while hearing the judgment of the court.

[19 June 2003]

Section 153. Maintaining Order at a Court Sitting

(1) Persons who disturb the order of the court during the time when a matter is being tried shall be warned by the judge.

(2) If participants in the matter, witnesses, experts or interpreters disturb the order of the court repeatedly, the court may impose a fine upon such persons not exceeding fifty lats.

(3) If a public prosecutor or an advocate disturbs the order repeatedly, such a fact shall be reported to a more senior public prosecutor or to the Council of Latvian Sworn Advocates.

(4) If a person who is not a participant in the matter disturbs the order of the court repeatedly, he or she shall be expelled from the courtroom of the court. Such person may also be held liable, as prescribed by law, for contempt of court.

Section 154. Commencement of a Court Sitting

At the time appointed for trial of the matter the court shall enter the court room and the chairperson of the sitting shall open the court sitting, announce what matter is to be adjudicated, and identify the court panel, the court recorder of the court sitting and the interpreter.

Section 155. Verifying Attendance of Participants in the Matter

(1) The court recorder of the court sitting shall inform the court as to which of the summoned and summonsed persons are in attendance, whether persons not attending have been notified of the sitting, and what information has been received regarding the reasons for such persons failing to attend.

(2) The court shall verify the identity of the persons present and the authorisations of representatives.

Section 156. Consequences of Failure to Attend of Participants in a Matter, Witnesses, Experts or Interpreters

(1) If a participant in a matter, witness, expert or an interpreter fails to attend a court sitting, the court shall begin the trial of the matter, provided that there is not a basis for postponing it in accordance with Sections 209 or 210 of this Law.

(2) If a participant in a matter who has failed to attend the court sitting has not given timely notice to the court of the reasons for their failure to attend, the court may impose a fine upon such person not exceeding fifty lats.

(3) If a participant in a matter fails to attend the court sitting for reasons, which the court finds unjustified, the court may impose a fine upon such person not exceeding one hundred lats.

(4) Witnesses and experts who fail to attend a court sitting shall be subject to the procedural sanctions prescribed in Sections 109 and 122 of this Law.

Section 157. Explaining the Duties of Interpreters

(1) The court shall explain to interpreters their duty to translate the explanations, questions, testimony, applications and petitions of persons who are not fluent in the language of the court

proceedings, and to translate to such persons the explanations, questions, testimony, applications and petitions of other participants in the matter and the contents of the documents read, the judge's instructions and the court's adjudications.

(2) The court shall warn interpreters that they are liable in accordance with the Criminal Law for refusal to translate, or for knowingly translating falsely.

Section 158. Exclusion of Witnesses from the Court Room of a Court

Witnesses shall be excluded from the courtroom of the court until their examination commences. The chairperson of the sitting shall ensure that the witnesses who have been examined by the court do not communicate with witnesses who have not been examined.

Section 159. Explaining Rights and Duties to Participants in a Matter

(1) The court shall explain to the participants in a matter their procedural rights and duties.

(2) In the course of adjudicating a matter, the court shall explain to the parties and third persons the consequences of performing or failing to perform procedural actions.

Section 160. Decisions Regarding Removal

(1) The court shall ascertain whether the participants in the matter wish to remove a judge, public prosecutor, court recorder of the court sitting, expert or interpreter.

(2) Applications regarding removal shall be decided by the court in accordance with the procedures prescribed in Section 21 of this Law.

Section 161. Explaining Rights and Duties to Experts

The court shall explain to experts their rights and duties and warn them that for refusal to provide an opinion, or knowingly providing a false opinion, an expert is liable in accordance with the Criminal Law.

Section 162. Decisions Regarding Petitions Submitted by Participants in a Matter

The court shall ascertain whether the participants in the matter have petitions related to the trial of the matter and decide on such after hearing the opinion of other participants in the matter.

Section 163. Commencement of Adjudicating a Matter on the Merits

(1) Adjudicating a matter on the merits shall commence with the judge's report regarding the circumstances of the matter.

(2) After the judge's report, the court shall ascertain whether the plaintiffs maintain their claim, whether defendants admit a claim, and whether both parties wish to enter into a settlement or to transfer the matter for adjudication to an arbitration court.

Section 164. Withdrawal of a Claim, Admission of a Claim, Settlement, Agreement to Transfer a Matter to Arbitration Court

(1) Withdrawal of a claim or admission of a claim shall be recorded in the minutes of the court sitting and signed respectively by the plaintiff or by the defendant.

- (2) If withdrawal of a claim or admission of a claim is expressed in a written application addressed to the court, such application shall be appended to the matter file.
- (3) A settlement shall be submitted to the court in writing and appended to the matter file.
- (4) Agreement to transfer a matter to an arbitration court shall be drawn up in writing and appended to the matter file.
- (5) The court shall take a decision regarding withdrawal of a claim by the plaintiff, agreement of the parties to transfer the matter to an arbitration court, as well as a settlement of the parties, and such decision shall simultaneously terminate the court proceedings in the matter. The provisions of a settlement shall be set out in a decision by which the settlement is confirmed.
- (6) The court shall take a reasoned decision regarding a refusal to confirm a settlement, and shall continue to adjudicate the matter on the merits.
- (7) So long as the adjudicating of a matter on the merits is not completed, it shall be possible to withdraw a claim, admit a claim, enter into a settlement or an agreement to transfer the dispute for it to be adjudicated in an arbitration court.

Section 165. Explanations by Participants in the Matter

- (1) In a court sitting participants in the matter shall provide explanations in the following order: plaintiffs, third persons with independent claims, defendants.
 - (2) If a third person without an independent claim participates in the proceedings, he or she shall provide explanations after the plaintiff or after the defendant, depending on whose side the third person participates in the matter.
 - (3) If an action has been brought by a public prosecutor, a State or local government institution, or a person to whom the right to defend the rights and lawful interests of other persons in court has been conferred by law, they shall be the first to provide explanations at the court sitting.
 - (4) Representatives of participants in the matter shall provide explanations on behalf of the persons they represent.
 - (5) Participants in the matter shall state in their explanations all the facts upon which their claims or objections are based.
- [31 October 2002]*

Section 166. Written Explanations of Participants in a Matter

- (1) Participants in a matter have the right to submit their explanations to the court in writing.
- (2) Written explanations of participants in a matter shall be read at the court sitting in accordance with the order set out in Section 165 of this Law, and shall be appended to the matter file.

Section 167. Order of Questions Being Put

- (1) With the permission of the court, participants in a matter may put questions to each other. The court may reject questions, which are not relevant to the matter.
- (2) The judge may put questions to participants in the matter, if a participant expresses himself or herself obscurely or indefinitely, or if it is not evident from the explanations whether or not the participant admits or denies the facts on which the claims or objections of the other party are based.
- (3) If a party refuses to answer a question regarding disputable facts, or refuses to provide explanations regarding such, the court may assume that the party does not dispute such facts.

Section 168. Determining the Procedure for Examination of Evidence

After hearing the explanations and opinion of the participants in the matter, the court shall determine the procedure for the examining of witnesses and experts and for examination of other evidence.

Section 169. Warning of Witnesses

- (1) Before questioning a witness, the court shall determine their identity and warn them regarding their liability for refusing to testify or for knowingly providing false testimony, as well as explain the substance of Section 107 of this Law.
- (2) Before being examined, a witness shall sign a warning regarding such substance: "I, . . . (given name and surname of the witness), undertake to testify to the court about everything I know regarding the matter in which I am called as a witness. It has been explained to me that for refusing to testify or for knowingly giving intentionally false testimony I may be criminally liable in accordance with the Criminal Law."
- (3) The warning signed by the witness shall be appended to the minutes of the court sitting.
- (4) The judge shall explain to witnesses who have not attained the age of 14 years, their duty to testify truthfully and to tell all they know regarding the matter, but shall not warn such a witness about liability for refusing to testify or knowingly giving false testimony.

Section 170. Examination of Witnesses

- (1) Each witness shall be examined separately.
- (2) The witnesses designated by the plaintiff shall be examined first and the witnesses designated by the defendant thereafter. The order of the examination of the witnesses designated by a party shall be determined by the court, taking into account the opinion of such party.
- (3) A witness shall give testimony and answer questions orally.
- (4) The court shall determine the relationship of the witness with the parties and third persons and ask the witness to tell the court everything that he or she personally knows regarding the matter and to avoid providing information the source of which he or she cannot identify, as well as expressing his or her own assumptions and conclusions. The court may interrupt the narrative of a witness, if the witness speaks about facts not relevant to the matter.
- (5) With the permission of the court, participants in the matter may put questions to the witness. Questions shall be put first by the participant at whose request the witness was called, and thereafter by other participants in the matter.
- (6) The judge may put questions to the witness at any time during the examination of the witness. During the examination of a witness, questions may also be put to the participants in the matter.
- (7) The court may examine a witness a second time during the same or at another court sitting, as well as confront witnesses with each other.
- (8) If the facts for the determining of which witnesses were called have been determined, the court, with the consent of the participants in the matter, upon taking an appropriate decision regarding this, may waive examining the witnesses in attendance. The consent of the participants in the matter shall be recorded in the minutes of the sitting and shall be signed by each participant in the matter.

Section 171. Right of a Witness to Use Written Notes

When giving testimony, a witness may use written notes, if the testimony is in connection with calculations or other data, which are difficult to remember. Such notes shall be shown to the

court and to the participants in the matter and may, pursuant to a court decision, be appended to the matter file.

Section 172. Examination of Witnesses who are Minors

- (1) The examination of a minor shall be conducted, at the discretion of the court, in the presence of a lawful representative or a teacher. Such persons may put questions to the witness who is a minor.
- (2) In cases where it is necessary to determine the facts of a matter, any participant in the matter or any person present in the courtroom may, pursuant to a court decision, be sent out of the courtroom during the examining of a witness who is a minor. After a participant in the matter returns to the courtroom, he or she shall be acquainted with the testimony of the minor witness and shall be given an opportunity to put questions to the witness.
- (3) Witnesses who have not reached the age of 15 years shall be sent out of the courtroom after their examination, except in cases where the court finds that it is necessary that such a witness be present in the courtroom.

Section 173. Reading the Testimony of a Witness

The testimony of a witness obtained in accordance with the procedures regarding the securing of evidence or regarding court assignments, or at a prior court sitting, shall be read during the court sitting at which the matter is being tried.

Section 174. Duties of Witnesses who have been Examined

Witnesses who have been examined shall remain in the courtroom until the end of the trial of the matter. They may leave the courtroom before the end of the trial of the matter only pursuant to a court decision, taken after hearing the opinion of the participants in the matter.

Section 175. Examination of Expert Opinions and Examining Experts

- (1) An expert opinion shall be read at the court sitting.
- (2) The court and the participants in the matter may put questions to the expert in the same order as with respect to witnesses.
- (3) In cases referred to in Section 125 of this Law the court may order additional or repeat expert-examination.

Section 176. Appending of Documentary Evidence to the Matter File

The court shall decide issues regarding the appending of documentary evidence to the matter file after it has acquainted the participants in the matter with the substance of such evidence and has heard their opinion.

Section 177. Examination of Documentary Evidence

- (1) Documentary evidence or the minutes of the examination thereof shall be read at the court sitting or presented to the participants in the matter, and, if necessary, also to experts and witnesses.
- (2) Personal correspondence may be read at an open court sitting only with the consent of the persons involved in such correspondence. If no such consent has been given, or if the persons are deceased, such evidence shall be read and examined in a closed court sitting.

Section 178. Disputing of Documentary Evidence

- (1) Participants in a matter may dispute the veracity of documentary evidence.
- (2) Documentary evidence may not be disputed by the person who himself or herself has signed such evidence. Such a person may dispute the evidence by bringing an independent action, if their signature was obtained under the influence of duress, threat or fraud.
- (3) The veracity of Land Register entries, notarised documents or other acts certified in accordance with procedures specified by law may not be disputed. Such may be disputed by bringing an independent action.
- (4) The submitter of disputed documentary evidence shall explain at the same court sitting whether they wish to use such documentary evidence or whether they request that it be excluded from the evidence.
- (5) If a participant in the matter wishes to use the disputed evidence, the court shall decide as to allowing its use after comparing such evidence with other evidence in the matter.

Section 179. Application Regarding Forgery of Documentary Evidence

- (1) A participant in a matter may submit a substantiated application regarding forgery of documentary evidence.
- (2) The person who has submitted such evidence may request the court to exclude it.
- (3) In order to examine an application regarding forgery of documentary evidence, the court may order an expert-examination or require other evidence.
- (4) If the court finds that the documentary evidence has been forged, it shall exclude such evidence and notify a public prosecutor about the fact of forgery.
- (5) If the court finds that a participant in the matter has, without good cause, initiated a dispute regarding the forgery of documentary evidence it may impose a fine on such a participant not exceeding one hundred lats.

Section 180. Examination of Real Evidence

- (1) Real evidence shall be inspected at the court sitting and presented to the participants in the matter, and, where necessary, also to experts and witnesses.
- (2) Participants in the matter may provide explanations regarding real evidence and express their opinions and requests.
- (3) Minutes of the inspection of real evidence, written pursuant to the procedures for securing evidence or a court assignment, shall be read at the court sitting.

Section 181. Inspection and Examination of Evidence on Site

- (1) If documentary or real evidence cannot be brought to the court, the court shall take, pursuant to the petition of a participant in the matter, a decision on inspection and examination of such evidence at the site where it is located.
- (2) The court shall notify the participants in the matter of an inspection on site. The failure of such persons to attend shall not be an impediment to performing the inspection.
- (3) In conducting an inspection on site, the court may summon experts and witnesses.
- (4) The course of the inspection shall be recorded in the court sitting minutes, to which shall be appended plans, technical drawings and representations of the real evidence prepared and examined during the inspection.

Section 182. Opinion of an Authority

- (1) After the evidence has been examined, the court shall hear the opinion of the authorities participating in the proceedings in accordance with law or a court decision.
- (2) The court and the participants in the matter may put questions to representative of such authorities concerning their opinion.

[7 April 2004]

Section 183. Closing the Adjudicating on the Merits of a Matter

- (1) After all submitted evidence has been examined, the court shall ascertain the opinion of the participants in the matter regarding the possibility of closing the adjudicating on the merits of the matter.
- (2) If it is not necessary to examine additional evidence, the court shall determine whether plaintiffs maintain their claim and whether the parties wish to enter into a settlement.
- (3) If a plaintiff does not withdraw his or her claim and the parties do not wish to make a settlement, the court shall declare that the adjudicating on the merits of the matter is closed, and proceed to court argument.

Section 184. Court Argument

- (1) In court argument plaintiffs or their representatives shall speak first, followed by defendants or their representative. Public prosecutors, representatives of State or local government institutions and persons who have come to the court in order to defend the rights and interests protected by law of other persons, shall be the first to speak at the court argument.
- (2) If third persons with independent claims regarding the subject-matter of the dispute are participating in the matter, such persons or their representatives shall speak after the parties.
- (3) Third persons without independent claims regarding the subject-matter of the dispute, or their representative, shall speak after plaintiffs or defendants on whose side the third person is participating in the matter.
- (4) Participants in the court argument are not entitled to refer in their statements to such facts and evidence as have not been examined at the court sitting.
- (5) The court may interrupt a participant in the argument, if the participant discusses facts not relevant to the matter.

Section 185. Reply

- (1) After the participants in the matter referred to in Section 184 of this Law have spoken in the argument, each of them has the right to one reply.
- ((2) The court may limit the time for reply.

Section 186. Opinion of the Public Prosecutor

If a public prosecutor who has not brought an action participates in the proceedings, he or she shall, subsequent to the court argument and comments, provide an opinion regarding the validity of the claim.

Section 187. Deliberation by the Court

(1) Following the court argument, the replies and the opinion of the public prosecutor, the court shall retire to the deliberation room to render judgment, prior thereto notifying the persons present in the courtroom thereof.

(2) If in a complicated matter, the court acknowledges that in this court sitting it is not possible to render a judgment, it shall determine the next court sitting in which it shall notify the judgment within the nearest 14 day time period.

[19 June 2003]

Section 188. Resuming the Adjudicating on the Merits of a Matter

(1) If, during deliberation, the court finds it necessary to determine new facts that are significant in the matter or to further examine existing or new evidence, it shall resume the adjudicating on the merits of the matter.

(2) In such case the court sitting shall continue in accordance with the procedures prescribed in this Chapter.

Chapter 22 Judgments

Section 189. General Provisions

(1) A court adjudication, by which a matter is adjudged on the merits, shall be made by the court in the form of a judgment and pronounced in the name of the Republic of Latvia.

(2) A judgment shall be rendered and pronounced after the adjudication of a matter.

(3) A judgment must be lawful and well-founded.

(4) No direct or indirect interference with the rendering of a judgment, or exerting of influence upon the court, shall be permitted.

[19 June 2003]

Section 190. Lawfulness and Basis of Judgment

(1) *[19 June 2003]*

(2) In the deliberation of judges only those judges may be present who are in the court panel for the matter being adjudicated.

[19 June 2003]

Section 191. Procedures for Rendering Judgment

(1) The court shall render judgment in the deliberation room.

(2) While a judgment is being rendered, only judges who are members of the court panel in such matter may be present in the deliberation room.

(3) If a judgment is made collegially, the chairperson of the court sitting shall be the last to state his or her opinion.

(4) In rendering judgment, the court shall adopt all adjudications with a majority vote. All the judges shall sign the judgment.

(5) The judgment in a matter adjudicated by a single judge shall be signed by the judge.

(6) After the judgment has been signed, no alterations or changes shall be permitted.

(7) No erasures or blockings out shall be permitted in a judgment, but corrections or written additions shall be justified before all the judges sign it.

Section 192. Observance of Claim Limits

The court shall make a judgment regarding the subject-matter of the action set out in the action, and on the basis specified in the action, not exceeding the extent of what is claimed.

Section 193. Form and Contents of a Judgment

- (1) A judgment shall be drawn up in writing.
- (2) A judgment shall consist of an introductory part, a descriptive part, a reasoned part and an operative part.
- (3) The introductory part shall set out that the judgment is made in the name of the Republic of Latvia, as well as the date when the judgment was rendered, the name of the court rendering the judgment, the court panel, the court recorder of the court sitting, the participants in the matter and the subject-matter of the dispute.
- (4) The descriptive part shall set out the claim of the plaintiff, the counterclaim of the defendant, objections, and the substance of the explanations provided by participants in the matter.
- (5) The reasoned part shall state the facts established in the matter, the evidence on which the conclusions of the court are based, and the arguments by which such evidence, or other evidence, has been rejected. This part shall also set out the regulatory enactments, which the court has acted pursuant to, and a judicial assessment of the facts determined in the matter, as well as the conclusions of the court regarding the validity or invalidity of the claim. If the defendant has fully recognised the claim, the reasoned part of the judgment shall include only an indication of the regulatory enactments, which the court has acted pursuant to.
- (6) The operative part shall set out the adjudication of the court regarding the complete or partial allowing of the claim, or the complete or partial dismissal thereof and the substance of the judgment. Furthermore, it shall set out by whom, and to what extent, court costs shall be paid, the time periods for the voluntary execution of the judgment if the court has specified such, as well as the time periods and procedures for appeal of the judgment.

[17 February 2005; 7 September 2006]

Section 194. Abbreviated Judgment

In a complicated matter, the court may prepare an abbreviated judgment consisting of an introductory part and an operative part. In such case, the court shall prepare a full judgment within 14 days.

Section 195. Judgments regarding Recovery of Monetary Amounts

In rendering a judgment regarding recovery of monetary amounts, the court shall set out in the operative part thereof the type of claim and the amount to be recovered, indicating separately the principal debt and the interest, the time period for which the interest has been adjudged and the rights of the plaintiff regarding receipt of interest for the time period prior to execution of the judgment (the day of an auction), with reference also to the extent thereof.

Section 196. Judgments regarding Recovery of Property in Specie

In rendering judgment regarding recovery of property in specie, the court shall set out in the operative part thereof the specific property and stipulate that in the case of the non-existence of the property its value shall be recovered from the defendant, referring to the specific amount.

Section 197. Judgments Imposing a Duty to Perform Specific Actions

(1) In a judgment, which imposes a duty to perform specific actions, the court shall state specifically who is to perform them, what actions are to be performed and the time period within which they are to be performed.

(2) In making a judgment which imposes a duty on the defendant to perform specific actions not related to the providing of property or amounts of money, the court may set out in the judgment that if the defendant does not perform the said actions within the specified time period, the plaintiff is entitled to perform such actions at the expense of the defendant, and thereafter recover payment from the defendant for expenditures necessitated.

Section 198. Judgments in Favour of Several Plaintiffs or against Several Defendants

(1) In a judgment in favour of several plaintiffs, the court shall set out which part of the judgment refers to each of them, or that the right to recovery are solidary.

(2) In a judgment against several defendants, the court shall state which part of the judgment shall be executed by each of them, or that their liability is solidary.

Section 199. Pronouncement of Judgment

(1) After the judgment is signed, the court shall return to the court room of the court where the judge shall pronounce the judgment by reading it.

(2) After pronouncing the judgment the judge shall explain its substance and the procedures and time periods for appeal.

(3) In pronouncing an abbreviated judgment, the court shall announce the date by which a full judgment shall be prepared.

Section 200. Correction of Clerical and Mathematical Calculation Errors

(1) The court may, upon its own initiative or upon an application of a participant in the matter, correct clerical and mathematical calculation errors in the judgment. An issue regarding correction of mistakes shall be examined at a court sitting, upon prior notice to the participants in the matter. The failure of such persons to attend is not an impediment to the examining of the issue.

(2) Clerical and mathematical calculation errors in the judgment shall be corrected pursuant to a decision of the court.

(3) A participant in the matter may submit an ancillary complaint regarding a decision to correct a mistake in the judgment.

Section 201. Supplementary Judgment

(1) The court that renders a judgment in a matter is entitled, upon its own initiative or pursuant to the application of a participant in the matter, to render a supplementary judgment if:

1) judgment has not been rendered regarding any of the claims for which the participants have submitted evidence and provided explanations; or

2) the court has not specified the amount of money adjudged, the property to be transferred, the actions to be performed, or compensation for court costs.

(2) The rendering of a supplementary judgment may be initiated within the time period prescribed by law for appealing the court judgment.

(3) The court shall notify the participants in the matter about the date and place such issue is to be adjudicated. The failure of such persons to attend is not an impediment to deciding the issue regarding the rendering of a supplementary judgment.

(4) An ancillary complaint may be submitted regarding a court decision to refuse to render a supplementary judgment.

Section 202. Explanation of Judgment

(1) The court that has rendered a judgment may, pursuant to the application of a participant in the matter, take a decision explaining the judgment without changing its substance.

(2) Explanation of a judgment shall be permitted, if the judgment has not yet been executed and the time period for its compulsory execution has not expired.

(3) An issue regarding explanation of a court judgment shall be adjudicated in a court sitting upon prior notice to the participants in the matter. The failure of such persons to attend is not an impediment to the adjudication of the issue.

(4) An ancillary complaint may be submitted regarding a court decision concerning explanation of a judgment.

Section 203. Coming into Lawful Effect of a Judgment

(1) A court judgment shall come into lawful effect when the time period for its appeal in accordance with appellate procedures has expired and no appeal has been submitted. If an appellate instance court has left an appellate complaint unadjudicated or closed appellate proceedings, the judgment shall come into effect from the time the respective decision is pronounced.

(2) If a part of a judgment is appealed, the judgment shall come into effect regarding the part, which has not been appealed, after expiration of the time period for its appeal.

(3) After a judgment has come into lawful effect, the participants in the matter or their successors in interest are not entitled to dispute at other court proceedings the facts established by the court, as well as to bring court action anew regarding the same subject-matter and on the same basis, except in the cases specified in this Law.

(4) If, after a judgment imposing regular payments on a defendant has come into lawful effect, there is a change of circumstances affecting the determination of the amount or duration of payments, either party is entitled to request that the amount or time period of payments be varied, by submitting a new claim.

(5) A judgment that has come into lawful effect shall have the force of law, it is compulsory and may be executed throughout the territory of the State, and it may be set aside only in cases, and in accordance with procedures, prescribed by law.

[7 September 2006]

Section 204. Execution of Judgments

A judgment shall be executed after it has come into lawful effect, except in cases where the judgment is to be executed without delay.

Section 204.¹ Voluntary Executions of Judgments

(1) In rendering a judgment regarding the recovery of amounts of money, the return of property in kind, the eviction of persons and property from premises and the recovery of court costs, a court shall determine a time period for the voluntary execution of the judgment, except in cases where the judgment is to be executed without delay.

(2) The time period for the voluntary execution of a judgment may not be longer than 10 days from the day of the coming into effect of the judgment.

[17 February 2005]

Section 205. Judgments to be Executed without Delay

(1) Pursuant to the request of a participant in the matter, the court may state in the judgment that the following judgments shall be executed, fully or with regard to a specified part, without delay:

- 1) regarding recovery of child support;
- 2) regarding recovery of remuneration for work;
- 3) regarding reinstatement to employment;
- 4) regarding compensation for mutilation or other injury to health;
- 5) regarding recovery of means of support as a result of the death of a person who had a duty to support someone;
- 6) in matters where the defendant has admitted the claim; and
- 7) in matters where delayed enforcement of the judgment may, due to special circumstances, cause substantial losses for the judgment creditor, or recovery itself may become impossible.

(2) Immediate execution of a judgment provided for in Paragraph one, Clause 7 of this Section shall be permitted only by requiring adequate security from the judgment creditor in the event that an appellate instance court varies the judgment.

Section 206. Postponement, Division into Time Periods, Varying of the Form and Procedure of Execution of a Judgment

(1) The court which has rendered a judgment in a matter is entitled pursuant to the application of a participant in the matter and taking into account the financial situation of the parties, children's rights or other circumstances, to take a decision to postpone the execution of a judgment or divide it into time periods, as well as to vary the form and procedures of a judgment.

(2) The application shall be adjudicated at a court sitting upon prior notice to the participants in the matter. The failure of such persons to attend is not an impediment to the adjudication of the application.

(3) An ancillary complaint may be submitted regarding a court decision to postpone the execution of a judgment or divide it into time periods, or to vary the form and procedures of a judgment.

[14 December 2006]

Section 207. Securing the Execution of a Judgment

Pursuant to the application of participants in a matter the court, in order to secure the execution of a judgment, may order in the judgment the measures provided for in Section 138 of this Law.

[7 September 2006]

Section 208. Sending of a True Copy of the Judgment to the Participants in the Matter

- (1) A true copy of the judgment shall be sent to the participants in the matter who have not attended the court sitting, not later than three days after the judgment has been pronounced, but where an abbreviated judgment is pronounced – within three days after a full judgment has been drawn up.
- (2) If a participant in the matter has been present at the court sitting and the court has pronounced an abbreviated judgment, the court shall send to the participant, pursuant to his or her written request, a true copy of the full judgment within three days of the full judgment being drawn up.

Chapter 22.¹ Default Judgment

[31 October 2002]

Section 208.¹ Default Judgment

- (1) A default judgment is a judgment, which is rendered, at the request of the plaintiff, by the court of first instance in a matter where the defendant has failed to provide explanations regarding the claim and has failed to attend pursuant to the court summons without notifying the reason for the failure to attend.
 - (2) A default judgment shall be rendered by the court on the basis of the explanations by the plaintiff and the materials in the matter if the court recognises such as sufficient for settling of the dispute.
 - (3) A default judgment may not be rendered in matters:
 - 1) which may not be terminated by settlement;
 - 2) in which the place of residence or location of the defendant is not in the Republic of Latvia;
 - 3) in which the defendant has been summoned to court by a publication in the newspaper *Latvijas Vēstnesis*; and
 - 4) in which there are several defendants and at least one of them participates in proceedings.
 - (4) Provisions regarding the default judgment shall not apply to the special adjudication procedures.
- [30 October 2002]*

Section 208.² Form and Contents of a Default Judgment

- (1) A court shall render and draw up a default judgment in accordance with the procedures specified in Sections 189-198 of this Law, taking into account the features provided for by this Section.
 - (2) The fact that the judgment is made by default shall be indicated in the title thereof.
 - (3) The descriptive part of a default judgment shall set out the claims of the plaintiff, the substance of the explanation of the defendant and the procedural basis for rendering such judgment.
 - (4) The operative part of a default judgment in addition to the provisions prescribed in Section 193, Paragraph six of this Law shall set out that the plaintiff is entitled to appeal the judgment in accordance with appellate procedures, but the defendant is entitled, within 20 days from the day the default judgment was sent, to submit to the court which rendered the default judgment an application regarding renewal of court proceedings and adjudicating of the matter *de novo*.
- [30 October 2002]*

Section 208.³ Sending of a True Copy of the Default Judgment to the Defendant

A true copy of the default judgment shall be sent to the defendant by registered mail.
[30 October 2002]

Section 208.⁴ Appeal of a Default Judgment

- (1) A plaintiff is entitled to appeal a default judgment in accordance with the appellate procedures.
 - (2) A defendant is not entitled to appeal a default judgment in accordance with the appellate procedures.
- [30 October 2002]

Section 208.⁵ Renewal of Court Proceedings and Adjudicating of the Matter *de novo*

- (1) A defendant is entitled, within 20 days from the day a default judgment was sent, to submit to the court, which rendered the default judgment an application regarding renewal of court proceedings and adjudicating of the matter *de novo*.
 - (2) In an application shall be set out:
 - 1) the name of the court that rendered the default judgment;
 - 2) the given name, surname, personal identity number and place of residence of the defendant but for a legal person — its name, registration number and location (legal address);
 - 3) the date when the default judgment was rendered and the substance thereof;
 - 4) reasons due to which the defendant did not participate in the matter;
 - 5) objections of the defendant against the claim and judgment, grounds for the objections;
 - 6) evidence corroborating the objections and the grounds thereof, the law on which they are based;
 - 7) a petition regarding acceptance of evidence or requiring thereof; and
 - 8) a petition to renew court proceedings in the matter and adjudicate the matter *de novo*.
 - (3) An application shall have appended documents, which attest to the following:
 - 1) payment of State fees and other court costs in accordance with the procedures and in the amounts set out by law; and
 - 2) the grounds for objections.
 - (4) The application shall have appended true copies thereof and true copies of documentary evidence for sending to the plaintiff and third persons.
- [30 October 2002]

Section 208.⁶ Leaving Applications Not Proceeded With

- (1) A judge shall leave an application not proceeded with if:
 - 1) the application does not contain all requisites prescribed in Section 208.⁵, Paragraph two of this Law; or
 - 2) the application is not accompanied by all of the documents provided for in Section 208.⁵, Paragraphs three and four of this Law.
- (2) A judge shall take a reasoned decision regarding leaving an application not proceeded with a true copy of which shall be sent to the defendant by registered mail and shall stipulate a time period of at least 20 days for rectification of deficiencies. The time period shall be calculated from the day when the decision was sent. The decision may be appealed in accordance with the procedures set out in this Law. The time period for appeal shall be calculated from the day when the decision is

received. If no other date of receipt is determined it shall be considered that the defendant received a true copy of the decision on the seventh day from the day it was sent.

(3) If the defendant does not rectify the deficiencies within the time period stipulated by the judge, the application shall be deemed as not submitted and shall be returned to the defendant. The decision regarding the return of the application may not be appealed.

(4) If the application is returned to the defendant, he or she has no right to submit the application to the court repeatedly.

[30 October 2002]

Section 208.⁷ Actions of a Judge after Acceptance of the Application

(1) Having recognised that the application complies with the requirements of Section 208.⁵ of this Law, the judge shall notify the plaintiff and third persons of the application and send them true copies of the application and the documents attached thereto.

(2) The judge shall examine the application within seven days after receipt thereof and take one of the following decisions:

1) regarding renewal of court proceedings and adjudicating of the matter *de novo* if it is recognised that the adjudicating of the matter without participation of the defendant and examination of his or her applied evidence has led or may have led to an erroneous adjudging of the matter; or

2) regarding dismissal of the application if it is recognised that adjudicating of the matter *de novo* does not have the grounds specified in Paragraph two, Clause 1 of this Section.

(3) The judge shall specify in the decision regarding renewal of court proceedings and adjudicating of the matter *de novo* the day and time of the court sitting and the persons to be summoned and summonsed to the court.

(4) If a decision regarding renewal of court proceedings and adjudicating of the matter *de novo* has been taken and the plaintiff has submitted an appellate complaint with respect to the default judgment, the complaint shall be returned to the plaintiff.

(5) An ancillary complaint may be submitted regarding the decision by which an application is dismissed. A decision regarding renewal of court proceedings and adjudicating of the matter *de novo* may not be appealed.

[30 October 2002]

Section 208.⁸ Coming into Lawful Effect of a Default Judgment

(1) A default judgment shall come into lawful effect if within the time period set out by law no appellate complaint has been submitted and no application regarding renewal of court proceedings and adjudicating of the matter *de novo* has been submitted.

(2) If the application regarding renewal of court proceedings has been dismissed and an appellate complaint with respect to the court decision has not been submitted, a default judgment shall come into effect after the time period for appeal of the decision of the judge has expired.

(3) If the decision of the judge regarding dismissal of the application is appealed and the appellate instance court has left it unvaried, a default judgment shall come into effect from the moment the decision of the appellate instance court is pronounced.

[30 October 2002]

Section 208.⁹ Adjudicating of Matters de novo

If a decisions regarding renewal of court proceedings and adjudicating of the matter *de novo* has been taken, a default judgment shall not come into effect and the matter shall be adjudicated *de novo* in full in accordance with the procedures provided for in Chapter 21 of this Law. The restriction on the judge prescribed by this Law to participate in adjudicating of a matter *de novo* shall not apply to this case.

[30 October 2002]

Chapter 23 Postponement of Adjudication of a Matter

Section 209. Duty of the Court to Postpone Adjudication of a Matter

The court shall postpone adjudication of a matter if:

- 1) any participant in the matter is absent from the court sitting and has not been notified of the time and place of the court sitting;
- 2) any participant in the matter, who has been notified of the time and place of the court sitting, is absent from the court sitting because of reasons that the court finds justified;
- 3) the defendant has not received a true copy of the statement of claim and as a consequence petitions for postponement of adjudication of the matter;
- 4) it is necessary to summon, as a participant in the matter, a person whose rights or lawful interests might be infringed by the judgment of the court; or
- 5) in a case provided for in Section 240 of this Law.

Section 210. Right of the Court to Postpone Adjudication of a Matter

(1) The court may postpone adjudication of a matter if:

- 1) a plaintiff who has been notified of the time and place of the court sitting fails to attend the court sitting for reasons which are unknown;
- 2) a defendant who has been notified of the time and place of the court sitting fails to attend the court sitting for reasons which are unknown;
- 3) it is found that adjudication of the matter is impossible because of the failure to attend of a participant in the matter, whose participation in the adjudication of the matter is compulsory in accordance with law, or of a witness, expert or interpreter; or
- 4) pursuant to a petition of a participant in the matter, in order that the participant be given the opportunity to provide additional evidence.

(2) For the reason set out in Paragraph one, Clauses 1 or 2 of this Section, the court may postpone adjudication of a matter not more than once.

Section 211. Decision on Postponement of Adjudication of a Matter

(1) A decision on postponement of the adjudication of a matter shall be recorded in the minutes of the court sitting.

(2) In a decision on postponement of the adjudication of a matter all the procedural actions as must be performed prior to the next court sitting shall be mentioned, and the date of the next court sitting stipulated.

(3) The court shall inform the persons attending the court sitting about the date of the next court sitting, for which such persons shall sign. Persons not present shall be again summoned or summonsed to the court sitting.

(4) A decision to postpone adjudication of a matter may not be appealed, except for a decision in which the date of the next court sitting is not stipulated.

Section 212. Examination of Witnesses if Adjudication of a Matter is Postponed

(1) If all participants in the matter are present at the court sitting, the court may, upon postponing the adjudication of the matter, examine the witnesses who are present.

(2) Where necessary, witnesses who have been examined may be summonsed to the next court sitting.

Section 213. Recommencement of Adjudication of a Matter [7 September 2006]

Chapter 24 **Stay of Court Proceedings in Civil Matters**

Section 214. Duty of the Court to Stay Court Proceedings

The court shall stay court proceedings if:

1) a natural person has died or a legal person has ceased to exist, which person is a party or third person with independent claims in the matter, and if rights in connection with the disputed legal relations are capable of being assumed;

2) a party or third person has lost capacity to act;

3) a party or third person is no longer able to participate in the adjudication of the proceeding because of serious illness, old age or disability;

4) the court takes a decision regarding the submission of an application to the Constitutional Court or also the Constitutional Court has initiated a matter in relation to the constitutional complaint submitted by the parties or a third person;

4¹) it takes a decision regarding the assigning of a matter to the European Court of Justice for the rendering of a preliminary ruling; or

5) adjudication of the proceeding is not possible prior to the deciding of another matter, which is required to be adjudicated in accordance with civil, criminal or administrative procedures.

[20 June 2001; 7 April 2004; 7 September 2006]

Section 215. Right of a Court to Stay Court Proceedings

The court, pursuant to the initiative of a participant, or on its own initiative, may stay the court proceedings if:

1) a party or a third person with independent claims is outside the borders of Latvia in connection with lengthy official business, or the performing of duties for the State;

2) a search for a defendant has been announced;

3) a party or a third person with independent claims is unable to participate in the adjudication of the matter due to illness;

4) the court orders an expert-examination; or

5) the parties have mutually agreed to stay the proceedings and a third person with independent claims does not object.

Section 216. Duration of Stay of Court Proceedings

Court proceedings shall be stayed:

- 1) in cases provided for in Section 214, Clause 1 of this Law – until determination of a successor in interest or appointment of a lawful representative;
- 2) in cases provided for in Section 214, Clause 2 of this Law – until the appointment of a lawful representative;
- 3) in cases provided for in Section 214, Clause 3 of this Law – until the date set by the court to formalise representation;
- 4) in cases provided for in Section 214, Clauses 4, 4¹ and 5 of this Law – until the adjudication of the Constitutional Court or the European Court of Justice or a court in the civil matter, criminal matter or administrative matter comes into lawful effect;
- 5) in cases provided for in Section 215, Clauses 1-4 of this Law – until the time when the conditions mentioned in these paragraphs are no longer in effect; and
- 6) in cases provided for in Section 215, Clause 5 of this Law – for the time period stipulated in the court decision.

[20 June 2001; 7 April 2004]

Section 217. Decision Regarding Stay of Court Proceedings

- (1) In regard to staying court proceedings, the court shall take a reasoned decision, which shall be drawn up in the form of a separate procedural document.
- (2) In the decision shall be set out the conditions, until the coming into effect or ceasing of which the court proceedings have been stayed, or the time period for which the court proceedings have been stayed.
- (3) An ancillary complaint may be submitted regarding a court decision to stay court proceedings.

Section 218. Renewal of Court Proceedings

Court proceedings shall be renewed by the court pursuant to a decision on its own initiative or pursuant to the application of a participant in the matter.

Chapter 25 Leaving Claims Unadjudicated

Section 219. Duty of the Court to Leave a Claim Unadjudicated

The court shall leave a claim unadjudicated if:

- 1) the plaintiff has not complied with the preliminary procedures for examination extrajudicially provided for the relevant category of matter or has not, prior to submitting the claim, performed the measures prescribed by law in order to resolve his or her dispute with the defendant;
- 2) the statement of claim has been submitted by a person lacking capacity to act or by a person regarding whom trusteeship has been established in accordance with the provisions of Section 365 of The Civil Law.
- 3) the action has been brought in the name of the plaintiff by a person who has not been authorised, in accordance with the procedures prescribed by law, to do so; or
- 4) the dispute in the matter in the action is already, between the same parties, regarding the same subject-matter and on the same basis. before the same or another court.

Section 220. Right of the Court to Leave a Claim Unadjudicated

The court may leave a claim unadjudicated if the plaintiff or his or her representative has repeatedly failed to attend the court and has not requested that the matter be adjudicated in his or her absence.

[31 October 2002; 19 June 2003]

Section 221. Decision to Leave a Claim Unadjudicated

(1) In regard to leaving a claim unadjudicated, the court shall take a reasoned decision, which shall be in the form of a separate procedural document.

(2) An ancillary complaint may be submitted regarding the decision of the court to leave a claim unadjudicated.

Section 222. Consequences of Leaving a Claim Unadjudicated

If a claim is left unadjudicated, the plaintiff has the right to resubmit a statement of claim to the court in compliance with the procedures prescribed by law.

Chapter 26 Termination of Court Proceedings

Section 223. Basis for Terminating Court Proceedings

The court shall terminate court proceedings if:

- 1) the matter is not within the jurisdiction of the court;
- 2) the matter has been submitted by a person who does not have the right to make a claim;
- 3) a court judgment, which has been made in a dispute between the same parties, regarding the same subject-matter and on the same basis, or a court decision to terminate the court proceedings has come into lawful effect;
- 4) the plaintiff withdraws his or her claim;
- 5) the parties have entered into a settlement and the court has confirmed it;
- 6) the parties have agreed, in accordance with procedures set out in law, to submit the dispute for it to be adjudicated in an arbitration court;
- 7) a natural person who is one of the parties dies and rights in connection with the disputed legal relations are not capable of being assumed; or
- 8) a legal person who is one of the parties has ceased to exist and a successor in interest does not exist.

Section 224. Decision Regarding Termination of Court Proceedings

(1) Court proceedings shall be terminated pursuant to a reasoned decision of the court, made in the form of a separate procedural document.

(2) An ancillary complaint may be submitted regarding a court decision to terminate court proceedings.

Section 225. Consequences of Termination of Court Proceedings

If court proceedings have been terminated, repeated court proceedings regarding the dispute, by the same parties, regarding the same subject-matter and on the same basis shall not be permitted.

Chapter 27 Settlement

Section 226. Agreement regarding Settlement

- (1) A settlement shall be permitted at any stage in the procedure.
- (2) A settlement shall be permitted in any civil dispute, except in cases provided for in this Law.
- (3) Settlement shall not be permitted:
 - 1) in disputes in connection with amendments in registers of documents of civil status;
 - 2) in disputes in connection with the inheritance rights of persons under guardianship or trusteeship;
 - 3) in disputes regarding immovable property, if among the participants are persons whose rights to own or possess immovable property are restricted in accordance with procedures prescribed by law; or
 - 4) if the terms of the settlement infringe on the rights of another person or on interests protected by law.

Section 227. Entering into a Settlement

- (1) The parties shall enter into a settlement in writing and shall submit it to the court.
- (2) There shall be set out in the settlement:
 - 1) the given name, surname, personal identity number and place of residence of the plaintiff, but if the plaintiff is a legal person, its name, registration number and location (legal address);
 - 2) the given name, surname, personal identity number and place of residence of the defendant, but if the defendant is a legal person, its name, registration number and location (legal address);
 - 3) the subject-matter of the dispute; and
 - 4) the obligations of each party which they voluntarily undertake to perform.
- (3) A court may confirm a settlement without the participation of the parties if the settlement has been certified by a notary and contains a statement by the parties that they are aware of the procedural consequences of the court confirming the settlement.

Section 228. Court Decision regarding Confirmation of a Settlement

- (1) A court, upon receiving a settlement of the parties, shall determine whether the parties have agreed to the settlement voluntarily, whether it conforms with the provisions of Sections 226 and 227 of this Law, and whether the parties are aware of the procedural consequences of the court confirming the settlement.
- (2) If the court finds that the settlement conforms to the requirements of this Law, it shall take a decision pursuant to which it confirms the settlement and terminates court proceedings in the matter.
- (3) A settlement confirmed by a court decision shall be executed in accordance with the provisions regarding execution of court judgments.

Chapter 28

Court Decisions

Section 229. Taking Decisions

- (1) A court adjudication by which a matter is not adjudged on the merits shall be taken in the form of a decision.
- (2) A decision shall be drawn up in the form of a separate procedural document, or shall be written into the minutes of the court sitting and shall be pronounced after the minutes are approved.
- (3) In cases provided for in this Law, a court decision in the form of a separate procedural document shall be prepared in the deliberation room.
- (4) In regard to a judge's procedural work outside the court sitting a decision shall be taken, which shall be drawn up in the form of a separate procedural document.

Section 230. Contents of a Decision

- (1) In a decision the court or a judge shall set out:
 - 1) the time when and the location where the decision was taken;
 - 2) the name and composition of the court;
 - 3) the participants in the matter and the subject-matter of the dispute;
 - 4) the issues regarding which the decision has been taken;
 - 5) the reasons for the decision;
 - 6) the adjudication of the court or judge; and
 - 7) the procedure and time period for appealing the decision.
- (2) In decisions in which a bailiff is necessary, additional information regarding the participants in the matter [natural person – given name, surname, personal identity number (if it is known) and place of residence; legal person – name, location (legal address) and registration number (if it is known)] shall be indicated.

[19 June 2003]

Section 231. Sending a True Copy of the Decision

- (1) A true copy of the court decision shall be sent within three days to the participants in the matter who were not present when the decision was pronounced.
- (2) A true copy of a judge's decision shall be sent within three days to a person to whom it relates.

Section 232. Ancillary Decision of a Court

- (1) If in the course of a matter being adjudicated, facts are found that evidence possible violation of law, a court is entitled to take an ancillary decision, which shall be sent to the appropriate institution.
- (2) An ancillary decision of a court may not be appealed.

Division Five
Features of Adjudication for Separate Categories of Matters

Chapter 29
Matters Regarding Annulment and Dissolution of Marriage

Section 233. Procedures for Adjudicating Matters

Matters regarding annulment and dissolution of marriages shall be adjudicated by the court in accordance with the general provisions of procedures regarding actions and in compliance with the exceptions provided for in this Chapter.

Section 234. Jurisdiction regarding Matters

An action for annulment or dissolution of a marriage may also be brought in a court according to the place of residence of the plaintiff if:

- 1) there are minor children with the plaintiff;
- 2) the marriage to be dissolved is with a person who has, in accordance with prescribed procedures, been found to be lacking capacity due to mental illness or regarding whom a trusteeship has been established in accordance with the provisions of Section 365 of the Civil Law;
- 3) the marriage to be dissolved is with a person who is serving a sentence in a penal institution; or
- 4) the marriage to be dissolved is with a person whose place of residence is unknown or who resides in a foreign country.

Section 235. Matters regarding Dissolution of Marriage pursuant to the Application of Both Spouses

(1) Matters regarding dissolution of marriage to which both spouses agree shall be adjudicated by the court pursuant to the mutual application of both spouses.

(2) An application to the court may be submitted in accordance with the place of residence of either spouse.

[7 September 2006]

Section 235.¹ Statement of Claim regarding Dissolution of Marriage

In addition to the information provided for in Section 128 of this Law, the statement of claim shall specify the following:

- 1) since when the parties live separately;
- 2) whether the other spouse agrees to the dissolution of marriage; and
- 3) whether the parties have agreed regarding the custody of children, the procedures for exercising the access rights of the other parent, the means of support and division of the property acquired during marriage or are submitting relevant claims.

[31 October 2002; 19 June 2003]

Section 236. Participation of the Parties in a Court Sitting

(1) A matters regarding dissolution of marriage shall be adjudicated with the participation of both parties.

- (2) If the defendant, without justified cause, fails to attend pursuant to a court summons, he or she may be brought to court by forced conveyance.
- (3) If one of the parties lives far or due to other reasons cannot attend pursuant to a court summons, the court may admit as sufficient for the adjudicating of the matter a written explanation by this party or the participation of a representative thereof.
- (4) If the place of residence of the defendant is unknown or it is not located in Latvia, the matter may be adjudicated without the participation of the defendant if he or she has been summoned to court according to the procedures specified by law.
- (5) In matters regarding dissolution or annulment of a marriage the representative of a party must be specifically authorised to act in such matter. Authorisation regarding representation in matters regarding dissolution or annulment of marriage shall also apply to all other claims associated thereto.

[31 October 2002; 19 June 2003]

Section 237. Bringing Actions regarding Annulment of a Marriage

An action for annulment of a marriage may be brought by persons interested or by a public prosecutor.

Section 238. Prohibition to Separate Claims and Temporary Decisions in Separate Disputes

(1) In a matter regarding dissolution or annulment of marriage claims arising from family legal relationships shall be adjudged concurrently. Such claims shall be disputes regarding:

- 1) determining of custody;
- 2) exercising of access rights;
- 3) means of support for children;
- 4) means for the provision of the previous welfare level or support of the spouse;
- 5) joint family home and household or personal articles; and
- 6) division of the property of spouses (also if it affects third persons).

(2) At the request of a party the court may take a decision which temporarily, until the decision regarding dissolution or annulment of marriage is rendered, specifies the procedures for child care, the procedures for exercising access rights, means of support for children, prohibition to taking the child out of the State, means for the provision of the previous welfare level or support of the spouse, procedures for utilisation of the joint home of the spouses or instructs one of the parties to issue to the other party household and personal articles.

(3) The parties shall be notified of the court sitting but in matters, which affect children a representative of the Orphan's Court, shall be summoned to the court sitting, as well as the opinion of the children shall be clarified if they may formulate their opinion. The failure of the other spouse to attend is not an impediment to adjudication of the issue.

(4) The decision shall cease to be in force if another adjudication in the relevant issue is taken.

(5) An ancillary complaint may be submitted regarding the court decision in the issues referred to.

[31 October 2002; 7 September 2006]

Section 239. Preparation of Dissolution of Marriage Matters for Adjudication and Adjudication Thereof

(1) In matters regarding dissolution or annulment of marriage the court on its own initiative shall require evidence, especially for deciding of such issues which affect the interests of a child.

(2) In issues regarding granting custody rights, childcare and exercising of access rights the court shall require an opinion by the Orphan's Court and summon a representative thereof to participate in the court sitting, as well as clarify the opinion of the child if he or she may formulate his or her opinion.

(3) Matters regarding dissolution of marriage shall be adjudicated and the judgment shall be pronounced in a closed court sitting. Copies of documents (full text of the documents) shall only be issued to third persons if it directly pertains to such persons.

[31 October 2002; 7 September 2006]

Section 240. Postponing Adjudication of Dissolution of Marriage Matters

(1) The court on its own initiative shall postpone adjudicating of a matter for the purpose of restoring the cohabitation of spouses or promoting friendly settlement of the matter. At the request of a party the adjudicating of the matter for such purpose may also be repeatedly postponed.

(2) The court may not postpone the adjudicating of the matter if the parties have lived separately for more than three years and both parties object against postponing of the adjudicating of the matter.

[31 October 2002]

Section 241. Settlement and Conciliation

(1) In matters regarding dissolution or annulment of a marriage, settlement by the parties shall be permitted only in disputes related to family legal relationships (Section 238, Paragraph one).

(2) Discontinuation of an action regarding dissolution of a marriage or termination of court proceeding regarding dissolution of marriage is not an impediment for adjudication of the remaining claims on the merits.

[31 October 2002].

Section 242. Court Judgments in Dissolution of Marriage Matters

In rendering a judgment in a dissolution of marriage matter, the court shall:

1) adjudge all claims arising from the family legal relationships and regarding which actions have been brought;

2) specify whether a party who on entering into the marriage has changed his or her surname shall be granted use of the premarital surname; and

3) divide between the parties court costs, taking into account their financial situation.

[31 October 2002]

Section 243. Court Judgments in Annulment of Marriage Matters

In rendering judgment regarding annulment of a marriage, the court shall set out in the judgment:

1) the basis for annulment of the marriage in accordance with Sections 60-67 of the Civil Law;

2) whether a party who changed his or her surname upon entering the marriage is to be granted the use of his or her premarital surname or whether the married surname shall remain in effect;

3) which children shall remain with which parent, if this is in dispute; and

4) from which parent and in what amount means for child maintenance shall be recovered, if this is in dispute.

Section 244. Issuing and Sending of True Copies of Judgments and Giving Notice of Judgments

(1) After a judgment regarding annulment or dissolution of a marriage has come into lawful effect, a true copy of the judgment or an extract from the judgment shall be sent to the General Registry office where the marriage was performed or where originals of the civil status document registrations of earlier years are kept, but if the marriage was entered into before a minister – to the relevant church (minister of the congregation) and the General Registry office in whose jurisdiction the church (congregations) is located.

(2) In a matter in which the place of residence of the defendant is unknown, the court shall give notice regarding the annulment of the marriage in the newspaper *Latvijas Vēstnesis*.

(3) The court shall issue to the former marriage partners a true copy of a judgment by which a marriage is dissolved or declared annulled.

[31 October 2002]

Chapter 29.¹

Matters that Arise from Custody and Access Rights

[7 September 2006]

Section 244.¹ Procedures for Adjudicating Matters

Matters that arise from custody and access rights shall be adjudicated by the court in accordance with the general provisions of procedures regarding actions and in compliance with the exceptions provided for in this Chapter.

[7 September 2006]

Section 244.² Bringing an Action

(1) An action for matters that arise from custody rights may be brought by the parents of the child, guardians, the Orphan's Court or the public prosecutor.

(2) An action for matters that arise from access rights may be brought by the persons indicated in Section 181 of the Civil Law, as well as by the public prosecutor or Orphan's Court.

[7 September 2006]

Section 244.³ Jurisdiction regarding Matters

(1) An action for matters that arise from custody and access rights shall be brought in a court according to the place of residence of the child.

(2) If matters that arise from custody and access rights are adjudicated together with matters regarding dissolution or annulment of a marriage, the provisions of Chapter 29 of this Law shall be applied.

[7 September 2006]

Section 244.⁴ Participation of the Parties in a Court Sitting

(1) A matter that arises from custody and access rights shall be adjudicated with the participation of both parties.

(2) If the defendant, without justified cause, fails to attend pursuant to a court summons, he or she may be brought to court by forced conveyance.

(3) If one of the parties lives far or due to other reasons cannot attend pursuant to a court summons, the court may admit as sufficient for the adjudicating of the matter a written explanation by this party or the participation of a representative thereof.

(4) If the place of residence of the defendant is unknown or it is not located in Latvia, the matter may be adjudicated without the participation of the defendant if he or she has been summoned to court according to the procedures specified by law.

[7 September 2006]

Section 244.⁵ Preparation of Dissolution of Marriage Matters for Adjudication and Adjudication Thereof

(1) In matters that arise from custody and access rights the court on its own initiative or the request of an interested person shall request evidence.

(2) In matters that arise from custody and access rights the court on its own initiative or the request of an interested person shall request an opinion by the relevant Orphan's Court and summon a representative thereof to participate in the court sitting, as well as clarify the opinion of the child if he or she may formulate his or her opinion.

(3) On the basis of a request from the parties the court shall take a decision with which for a period to the rendering of a judgment shall determine the place of residence of the child, the procedures for the care of the child, procedures for the utilisation of access rights, and a prohibition to taking the child out of the State.

(4) A court in applying the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, and evaluating the jurisdiction of the matter in conformity with the interests of the child, on its own initiative or the request of an interested person may take a decision regarding the transfer of the matter for adjudication in a court in another state if the child during the court proceedings procedure has acquired a place of residence in such state and the court of the relevant state has consented to take over the matter.

(5) If in the mutual relations of the involved states Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (hereinafter - Council Regulation No. 2201/2003) is applicable, the court decision regarding the transfer of the matter shall be taken in accordance with the provisions of the referred to regulation.

[7 September 2006]

Section 244.⁶ Amicable Settlements between the Parties

(1) In matters that arise from custody and access rights, the parties are entitled to enter into an amicable settlement.

(2) The amicable settlement shall be approved by the court on its own initiative requesting an opinion from the relevant Orphan's Court or inviting the representative thereof to participate in the court sitting.

[7 September 2006]

Section 244.⁷ Consequences of a Court Judgment

If after a judgment has come into lawful effect in a matter that arises from custody and access rights, the circumstances change, each party is entitled to submit a new claim to the court by general procedures.

[7 September 2006]

Chapter 30 **Matters regarding Determination of the Parentage of Children**

Section 245. Procedures for Adjudicating Matters

A court shall adjudicate matters regarding the determination of the parentage of a child or a paternity dispute in accordance with general provisions and observing the exceptions provided for in this Chapter.

[19 June 2003]

Section 246. Persons who may Dispute the Presumption of Paternity

- (1) The presumption of paternity may be disputed in a court by the mother of a child, the husband of the mother of the child, and the child himself or herself after he or she attains legal age.
- (2) After the death of the husband of the mother of a child, the parents of the husband may bring such an action if the husband up to the time of his death had not known about the birth of the child.
- (3) After the death of the husband of the mother of the child his lawful heirs may, as successors in interest to him, enter the proceedings initiated by the husband.
- (4) If a person who has the right to dispute the presumption of paternity has been declared by a court as lacking capacity to act due to mental illness or mental deficiency, the trustee of the person lacking capacity to act may bring an action on his or her behalf. In such cases the court shall invite the Orphan's Court to participate in the matter.
- (5) Actions referred to in this Section may be brought in accordance with the provisions of Section 149 of the Civil Law.

[19 June 2003; 7 September 2006]

Section 247. Persons who may Dispute the Acknowledgement of Paternity

- (1) Paternity, which has been acknowledged and registered in a General Registry office, may be disputed by the person who has acknowledged the paternity, his trustee if the person is found to be lacking capacity to act due to mental illness or mental deficiency, or the mother of the child.
- (2) A child, if his or her parents are deceased, may himself or herself bring such action after attaining legal age.
- (3) After the death of the father of the child his lawful heirs may, as successors in interest to him, enter the proceedings initiated by the father.
- (4) Paternity, which has been determined pursuant to a court judgment that has come into lawful effect, may not be disputed.
- (5) An action referred to in this Section may be brought in accordance with the provisions of Section 156 of the Civil Law.

[19 June 2003]

Section 248. Persons who may bring an Action regarding the Determination of Paternity

- (1) An action regarding the determining of the paternity of a child may be brought in court by the mother or guardian of the child, as well as by the natural father of the child.
- (2) A child himself or herself may bring such action after attaining legal age.
- (3) Actions referred to in this Section may be brought in accordance with Section 158, Paragraph one of the Civil Law.

[19 June 2003]

Section 249. Procedures for Bringing Actions regarding Determination of the Paternity of a Child

- (1) The mother, the child himself or herself or guardian of the child may bring a paternity action against the person from whom the child is descended.
- (2) The person from whom the child is descended may bring an action to determine paternity against the mother of the child if she does not consent to the determination of paternity or there exists other obstacles indicated by law in making a record of paternity in the birth register.
- (3) *[7 September 2006]*
- (4) Actions regarding dispute of the presumption of paternity and the determination of paternity may be combined.

[19 June 2003; 7 September 2006]

Section 249.¹ Specification of Court Expert-examination

- (1) A court on the basis of a petition from a participant in the matter shall determine expert-examination for the specification of the child's biological descent.
- (2) If one of the participants in the matter evades the expert-examination, the court shall take a decision regarding the forced conveyance of such person for the conduct of the expert-examination.

[19 June 2003]

Section 249.² Determination of the Fact of Paternity

If a person from whom the child is descended has died, the fact of paternity may be determined according to special adjudication procedures.

[19 June 2003]

Section 250. Sending and Issuing True Copies of Court Judgments

A true copy of the judgment regarding determination of paternity, the determination of the fact of paternity and the recognition of the record of paternity as void shall be sent by the court for amendment of the record to the General Registry office where the birth of the child is registered.

[19 June 2003]

Chapter 30.¹ **Matters regarding Division of Estate**

[31 October 2002]

Section 250.¹ Jurisdiction regarding Matters

(1) A statement of claim regarding division of an estate, unless the heirs agree thereon in accordance with informal procedures or at a notary, shall be submitted to the court in accordance with the place of residence of one heir, but if immovable property is in the estate — in accordance with its location.

(2) A statement regarding division of an estate shall specify which property of the estate is subject to division and which heirs have applied for such.

[31 October 2002]

Section 250.² Actions of a Judge in Preparing a Matter

(1) A judge may set a preparatory sitting that shall be notified to the parties.

(2) Pursuant to a decision of the judge an endorsement regarding the securing of a claim shall be entered in the Land Register in conformity with the provisions regarding securing of a claim.

(3) The judge may assign the notary who has issued the inheritance certificate or another notary practising in the judicial region to supervise the course of drawing up an estate division plan.

[31 October 2002]

Section 250.³ Drawing up of a Draft Division of an Estate

(1) The notary who has received the assignment to supervise the course of drawing up a draft division of an estate, if necessary, shall invite a bailiff to draw up an estate property inventory statement and perform appraisal of the estate.

(2) Inventorizing of the estate shall take place in accordance with the provisions of this Law. The inventory statement shall also specify the known debts, obligations and entries in the Land Register, which encumber the estate.

(3) The notary shall perform activities to harmonise the views of the parties and reach an agreement.

(4) Persons who draw up a draft division of an estate shall specify in their opinion which grounds they have taken into account.

(5) The notary shall submit the property inventory statement, the appraisal of the property and the draft division of the estate to the judge.

[31 October 2002]

Section 250.⁴ Actions of a Judge after Receipt of a Draft Division of an Estate

(1) The court shall send true copies of the documents submitted by the notary to co-heirs and set a time period for provision of explanations.

(2) In addition to written explanations the judge may summon all co-heirs for verification of calculations and adjusting of the draft division of the estate.

[31 October 2002]

Section 250.⁵ Auctioning of the Estate to be Divided

(1) The estate shall be appraised and auctioned in conformity with the general provisions of this Law.

If all heirs and in appropriate cases also the Orphan's Court (Sections 280-283 of the Civil Law) agrees, the estate may be sold on the open market.

(2) Sale of immovable property for determination of the actual value thereof shall be performed pursuant to the regulations regarding voluntary sale at auction through the court, in compliance with the provisions of Sections 737 and 738 of the Civil Law, moreover the inventory of the immovable property shall be taken and it shall be appraised only if any of the co-heirs require such.

[31 October 2002; 7 September 2006]

Section 250.⁶ State Fees in Matters regarding Division of Estate

State fees in matters regarding division of estate shall be distributed among the heirs, taking into account the value of the estate granted to each heir.

[31 October 2002]

Section 250.⁷ Division of Joint Property

Provisions of this Chapter shall also be applicable in dividing joint property of all kinds and observing in such division the provisions of the relevant laws.

[31 October 2002]

Chapter 30.²

Matters regarding Infringement and Protection of Intellectual Property

[14 December 2006]

Section 250.⁸ Procedures for Adjudicating Matters

A court shall adjudicate matters regarding infringement and protection of intellectual property by claim procedure on the basis of general procedures taking into account the exceptions provided for in this Chapter.

[14 December 2006]

Section 250.⁹ Persons who may Submit Applications regarding Infringement and Protection of Intellectual Property

Persons specified by law may submit an application regarding infringement and protection of intellectual property.

[14 December 2006]

Section 250.¹⁰ Basis and Means for the Specification of Provisional Protection

(1) If there is a basis to believe that the rights of an intellectual property holder of the right are being infringed or may be infringed, a court on the basis of a reasoned application from a claimant may take a decision regarding the specification of means of provisional protection. In the application for the specification of means of provisional protection shall be indicated the means of provisional protection.

(2) The adjudication of the question of the specification of means of provisional protection is allowed at any stage of the proceedings, as well as prior to the bringing of an action to a court.

(3) Means of provisional protection are:

1) the attachment of such movable property with which it is alleged that intellectual property rights are being infringed;

2) a duty to recall goods with which it is alleged that intellectual property rights are being infringed; and

3) a prohibition to perform specific activities by both the defendant and persons whose provided services are utilised in order to infringe intellectual property rights, or persons who make it possible for the committing of such infringements.

[14 December 2006]

Section 250.¹¹ Specification of Provisional Protection prior to the Bringing of an Action

(1) Within a period of three months from the day when the potential plaintiff found out about the infringement or the possible infringement, he or she may request a court that provisional protection be specified prior to the bringing of an action.

(2) In submitting an application for the specification of means of provisional protection prior to the bringing of an action, the potential plaintiff shall provide evidence that certifies his or her intellectual property rights, which are being infringed, and evidence that are being infringed or may be infringed.

(3) An application for the specification of means of provisional protection prior to the bringing of an action shall be submitted to the court wherein the action shall be brought.

(4) In satisfying an application for the specification of means of provisional protection prior to the bringing of an action, the judge shall determine a time period for the plaintiff to bring an action to the court not longer than 30 days.

[14 December 2006]

Section 250.¹² Issue of Specification of Means of Provisional Protection Adjudication

(1) An application for the specification of means of provisional protection shall be decided by a court or a judge within a period of 10 days after the receipt of the application or the initiation of the matter if the application has been submitted together with the bringing of the action.

(2) If delay may cause irreversible harm to an intellectual property holder of the right, then a court or judge shall decide an application for the specification of means of provisional protection not later than the next day after the receipt of the application without previously notifying the defendant and other participants in the matter. If a decision regarding the specification of means of provisional protection has been taken without the presence of the defendant or the other participants in the matter, they shall be notified regarding such decision not later than by the moment of the execution of the referred to decision.

(3) In satisfying an application for the specification of means of provisional protection prior to bringing an action, a court or a judge may request that the plaintiff, in order that he or she secures the losses, which may be caused to the defendant or other persons who are referred to in Section 250.¹⁰, Paragraph three, Clause 3 of this Law in relation to the specification of means of provisional protection pay in a specified amount of money into the bailiff's deposit account or provide an equivalent guarantee.

(4) A court on the basis of an application by the plaintiff may replace the specified means of provisional protection with other means.

(5) Means of provisional protection may be revoked by the same court on the basis of an application by a participant in the matter.

(6) In refusing a claim, the means of provisional protection shall be revoked in the court judgment. The means of provisional protection shall be in effect up to the day when the judgment comes into lawful effect.

(7) If the claim is not proceeded with or the court proceeding is terminated, in the decision the court shall revoke the means of provisional protection. The means of provisional protection shall be in effect up to the day when the decision comes into lawful effect.

(8) If a decision regarding the specification of means of provisional protection has been taken prior to the bringing of an action and the action is not brought within the time period specified by the court, the judge on the basis of the receipt of an application from the potential plaintiff or other possible participant in the matter or the defendant shall take a decision regarding the revoking of the means of provisional protection.

(9) The applications referred to in Paragraphs one, four and five of this Section shall be decided in a court sitting, previously notifying the participants in the matter regarding this. The failure of such persons to attend shall not be an impediment to the adjudicating of the application.

[14 December 2006]

Section 250.¹³ Appeal of the Decision taken regarding Specification of Means of Provisional Protection

(1) In respect of the decisions referred to in Section 250.¹², Paragraphs two, three and four of this Law and the decision by which the application for the specification of means of provisional protection has been refused, an ancillary complaint may be submitted.

(2) If the decision regarding the specification of means of provisional protection has been taken without the presence of a participant in the matter, the time period for the submission of an ancillary complaint shall be counted from the day of the issuance or sending of the decision.

[14 December 2006]

Section 250.¹⁴ Execution of the Decision taken regarding Specification of Means of Provisional Protection

(1) A decision regarding the specification of means of provisional protection (Section 250.¹², Paragraph one) shall be executed within a period of 30 days after it has been taken. The submission of an ancillary complaint in respect of such decision shall not stop its execution.

(2) The decision regarding the specification of means of provisional protection, which has been taken with the conditions referred to in Section 250.¹², Paragraph two, first sentence of this Law, shall be executed after the plaintiff has paid in the amount specified by the court or judge into the bailiff's deposit account or provided an equivalent guarantee. The execution document shall be issued after the receipt of payment of the amount specified by the court or the equivalent guarantee.

(3) A decision regarding the specification of means of provisional protection by the attaching of movable property with which allegedly intellectual property rights are being infringed, shall be executed according to the procedures specified in Chapter 71 of this Law.

(4) A decision regarding the specification of means of provisional protection by determining a prohibition to perform specific activities or a duty to recall goods with which allegedly intellectual property rights are being infringed, shall be executed by a bailiff and shall notify the court decision to the defendant or a relevant third person, such person signing therefor, or sending it by registered mail.

- (5) The revocation of an applied means of provisional protection shall be executed by the order of the bailiff who executed the decision regarding the specification of means of provisional protection.
- (6) A decision regarding the replacement of the means of provisional protection shall be executed by a bailiff, firstly applying the replacement means of provisional protection and afterwards revoking the replaced means of provisional protection.

[14 December 2006]

Section 250.¹⁵ Compensation of Losses caused by the Means of Provisional Protection

A defendant is entitled to claim compensation for losses, which he or she has incurred in relation to the specification of means of provisional protection if the means of provisional protection has been revoked in the case specified in Section 250.¹², Paragraph eight of this Law if against him or her the action brought was refused, left not proceeded with or court proceedings were terminated in the cases specified in Section 223, Clauses 2 and 4 of this Law.

[14 December 2006]

Section 250.¹⁶ Rights to Information

(1) In matters of the infringement of intellectual property rights, a court on the basis of a reasoned request from the plaintiff, taking into account the rights of participants to the matter to protection of commercial secrets, may request that the information regarding the origin of the goods or services and the distribution thereof be provided by the defendant or a person:

- 1) at whose disposal are the infringing goods (infringing copies) on a commercial scale;
- 2) who on a commercial scale has provided or utilised services associated with the unlawful utilisation of intellectual property objects; or
- 3) about whom the persons referred to in Clauses 1 and 2 of this Paragraph have provided information, that he or she is involved the manufacture, distribution or offering of the infringing goods (infringing copies) or the provision or offering of such services, which are associated with the unlawful utilisation of intellectual property objects.

(2) In the information referred to in Paragraph one of this Section shall be indicated information regarding the relevant manufacturer, distributor, supplier, wholesaler and retailer of the goods or the relevant service provider and distributor [natural persons – given name, surname, personal identity number (if such is known) and place of residence, and legal persons – name, whereabouts (legal address) and registration number (if such is known), information regarding the amount manufactured, distributed, received or ordered goods or provided or ordered services, as well as the price, which was paid for them.

(3) If there exists evidence of the fact of an obvious infringement of intellectual property and the intellectual property holder of the right has requested that the securing of evidence, security for a claim or specification of means of provisional protection specified in this Law be applied, then the intellectual property holder of the right is entitled to request that the information referred to in Paragraphs one and two of this Section be ensured also prior to the bringing of an action in court within the scope of the security for a claim procedure specified in this Law.

[14 December 2006]

Section 250.¹⁷ Court Judgment in Infringement and Protection of Intellectual Property Matters

(1) If the fact of the infringement has been proven, a court in the judgment may specify one or several of the following measures:

- 1) stop and prohibit the utilisation of unlawful intellectual property objects;
 - 2) stop and prohibit measures, which are recognised as preparation for the unlawful utilisation of intellectual property objects;
 - 3) stop and prohibit the provision of services, which are utilised for unlawful activities with intellectual property objects by persons:
 - a) the services of whom are utilised in order to infringe the rights of the intellectual property holder of the right, or
 - b) who make possible the performance of such infringements; or
 - 4) fully or partially publicize the court judgment in newspapers and other mass media.
- [14 December 2006]

Division Six Special Adjudication Procedures

Chapter 31 General Provisions

Section 251. Matters to be Adjudicated in Accordance with Special Adjudication Procedures

Courts shall adjudicate the following matters in accordance with special adjudication procedures:

- 1) regarding approval and setting aside of adoption;
- 2) regarding declaration of a person as lacking capacity to act and establishment of trusteeship;
- 3) regarding establishment of trusteeship for persons because of their dissolute or spendthrift lifestyle, or because of excessive use of alcohol or narcotics;
- 4) regarding establishment of trusteeship for the property of absent or missing persons;
- 5) regarding declaration of missing persons as deceased;
- 6) regarding determination of such facts as are legally significant;
- 7) regarding extinguishing of rights in accordance with notification procedures;
- 8) regarding renewal of rights pursuant to debt instruments or bearer securities;
- 9) regarding inheritance rights;
- 10) regarding pre-emption with respect to immovable property;
- 11) regarding insolvency of a business or a company;
- 12) regarding liquidation or insolvency of a credit institutions;
- 13) regarding declaration of a strike or an application to strike as being unlawful; and
- 14) regarding declaration of a lock-out or an application to lock-out as being unlawful.

[31 October 2002]

Section 252. Initiation of Matters

Matters to be adjudicated in accordance with special adjudication procedures shall be initiated by a judge on the basis of a written application.

Section 253. Participants in a Matter

(1) Participants in matters to be adjudicated in accordance with special adjudication procedures shall be applicants and their representatives, interested persons and their representatives, and in the cases provided for by law, public prosecutors or State or local government institutions.

(2) Parties in matters to be adjudicated in accordance with special adjudication procedures shall have the procedural rights of parties as provided for in Section 74, Paragraph two of this Law.

Section 254. Application for Adjudication in Accordance with Special Adjudication Procedures

(1) There shall be set out in applications:

1) the name of the court to which the application has been submitted;

2) the given name, surname, personal identity number and place of residence of applicants and interested parties, but for legal persons their name, registration number and location (legal address). The personal identity number or registration number of interested parties shall, if known, be set out;

3) the subject-matter and basis of the application;

4) the facts on which the application is based and evidence corroborating them;

5) the law on which the application is based;

6) the request of the applicant;

7) a list of appended documents; and

8) the date when the application was drawn up.

(2) Applications shall be signed by applicants or their representatives. If an application has been signed by a representative, the application must include an authorisation or other document, which confirms the authorisation of the representative to submit the application to the court.

(3) An application shall be submitted to the court with as many true copies appended thereto as there are interested persons in the matter.

Section 255. Leaving an Application Not Proceeded With

If an application does not conform to the requirements of Section 254 of this Law and the provisions set out in the separate chapters of this Part, or if court costs have not been paid, the judge shall leave the application not proceeded with and the consequences provided for in Section 133 of this Law shall come into effect.

Section 256. Procedures for Adjudicating Matters

Matters to be adjudicated in accordance with special adjudication procedures shall be prepared by a judge, and the court shall adjudicate it in accordance with the provisions of this Law, and in compliance with the provisions of the separate Chapters of Division Six.

Section 257. Judgments

A judgment in matters to be adjudicated in accordance with special adjudication procedures shall conform to the requirements of Section 193 of this Law and shall be in compliance with the provisions of this Part.

Section 258. Leaving an Application Unadjudicated

If in a matter to be adjudicated in accordance with special adjudication procedures a dispute arises regarding rights and such dispute is required to be adjudicated in court in accordance with procedures regarding actions, the court, depending on the substance of the dispute, shall leave the application unadjudicated or stay the court proceedings until the dispute is decided.

Chapter 32 Approval and Setting Aside of Adoptions

Section 259. Jurisdiction

(1) An application regarding approval of an adoption shall be submitted to a court according to the place of residence of the adopter, but an application to set aside an adoption – to a court according to the place of residence of one applicant.

(2) An application from an alien or a person living in a foreign state regarding approval of an adoption shall be submitted to a court according to the place of residence of the adoptee.

[31 October 2002; 19 June 2003]

Section 260. Contents of an Application

There shall be set out in an application the facts referred to in Sections 162-169 of the Civil Law, appended to the application evidence corroborating such facts and the opinion of the Orphan's Court.

[31 October 2002]

Section 261. Adjudication of an Application

(1) The matter shall be adjudicated with the participation of at least one of the adopters in person and the public prosecutor.

(2) The persons set out in Section 169 of the Civil Law shall be summoned to the adjudication of the matter.

(3) At the request of the adopter the court shall ensure that the parents of the child to be adopted do not find out the identity of the adopter. If it is not possible, the parents of the adoptee shall be heard in a separate court sitting.

(4) If up to the approval of the court of the adoption the adopter dies, this is not an impediment to the approval of the adoption, but if the adoptee dies before approval, then the matter shall be terminated.

[31 October 2002; 19 June 2003]

Section 262. Court Judgment regarding Approval of the Adoption

(1) The court, having examined the basis of the application and whether it conforms to the requirements of the law, shall render a judgment regarding approval of the adoption or dismissal of the application.

(2) In a court judgment approving of an adoption there shall be set out such information as is necessary to make an entry in the appropriate Births Register.

(3) The court shall issue to the former parents of the child an extract of the judgment in which information regarding the adopter is not indicated.

(4) A judgment approving an adoption, which has come into lawful effect, shall constitute a basis for making an entry in the appropriate Births Register and for issuing a new birth certificate to the adoptee.

[20 June 2001; 31 October 2002]

Section 263. Setting Aside an Adoption

(1) The court may set aside an adoption pursuant to a joint application by the adopter and an adoptee who has attained legal age.

(2) A court judgment, regarding the setting aside of an adoption, which has come into legal effect shall constitute a basis for making an entry in the appropriate Births Register and for issuing a new birth certificate.

[31 October 2002; 7 September 2006]

Chapter 33

Declaring a Person as Lacking Capacity to Act and Establishing Trusteeship

Section 264. Jurisdiction

An application to declare a person as lacking capacity to act due to mental illness or mental deficiency shall be submitted to a court according to the place of residence of such person, but if the person has been placed in a medical institution, according to the location of the medical institution.

Section 265. Contents of an Application

There shall be set out in the application the mental illness or mental deficiency and evidence to confirm the incapacity of such person.

Section 266. Adjudicating Applications

(1) A matter regarding the declaring of a person as lacking capacity to act and to establish a trusteeship shall be adjudicated by the court, with a representative of the Orphan's Court and a public prosecutor participating.

(2) The person in regard to whose lack of capacity to act the matter is being adjudicated, shall be invited to the court sitting if his or her medical condition permits this.

[7 September 2006]

Section 267. Ordering Expert-examination

(1) The court shall decide the issue as to ordering a court psychiatric and, if necessary, a court psychological expert-examination.

(2) If a person, regarding whom a matter has been initiated, evades the expert-examination, the court, with a public prosecutor and an expert participating, may take a decision regarding the forced sending of such person to the court expert-examination.

(3) In ordering a court expert-examination, the court may take a decision to establish a temporary trusteeship for such person and his or her property. The decision shall be sent to the Orphan's Court for execution.

[7 September 2006]

Section 268. Court Judgments

(1) If a court, on the basis of the findings of the court expert-examination and other evidence, determines that a person, due to mental illness or mental deficiency, lacks all or most of their intellectual capacity and this person is incapable of controlling their actions or of understanding the significance of these actions, the court shall render a judgment regarding this person as found to be lacking capacity to act, and for a trusteeship to be established.

(2) After the judgment has come into lawful effect a true copy of the judgment shall be sent to the Orphan's Court for the appointing of a trustee for such person and his or her property. A true copy of the decision shall also be sent for registration in the Population Register and, if necessary, for an endorsement to be entered in the Land Register.

(3) After the judgment has come into legal effect, the court shall send a notice to the newspaper *Latvijas Vēstnesis* for publication, in which shall be set out:

- 1) the name of the court which made the judgment;
- 2) the given name, surname and personal identity number of the person regarding whom the judgment was made;
- 3) the fact that this person has been found to be lacking capacity act; and
- 4) the day when the judgment comes into lawful effect.

[7 September 2006]

Section 269. Court Costs

(1) Court costs in such matters shall be covered from State funds.

(2) If the court finds that the applicant has acted with malicious intent, such person may be assessed with the court costs.

Section 270. Finding a Person as Having Capacity to Act and Terminating Trusteeship

(1) If a person, whom a court judgment has found to be lacking capacity to act, becomes healthy, the court pursuant to the application of the Orphan's Court or a public prosecutor may find this person as having capacity to act and terminate the trusteeship.

(2) In adjudicating a matter regarding finding a person as having capacity to act, a court psychiatric expert-examination opinion is obligatory and, if necessary, a psychologist shall also be called.

(3) After a judgment has come into lawful effect, a true copy thereof shall be sent to the Orphan's Court to revoke the trusteeship. A true copy of the judgment shall also be sent for the entering of an endorsement in the Population Register and, if necessary, to expunge an endorsement in the Land Register.

(4) After the judgment has come into lawful effect the court shall send a notice, for publication, to the newspaper *Latvijas Vēstnesis*, in which shall be set out:

- 1) the name of the court that rendered the judgment;
- 2) the given name, surname and personal identity number of the person regarding whom the judgment was rendered;
- 3) the fact that this person has been found to have capacity to act; and
- 4) the day when the judgment comes into lawful effect.

[7 September 2006]

Chapter 34

Establishment of Trusteeship for Persons due to their Dissolute or Spendthrift Lifestyle or Excessive Use of Alcohol or Narcotics

Section 271. Jurisdiction

Applications to establish a trusteeship for persons who, because of their dissolute or spendthrift lifestyle or excessive use of alcohol or narcotics, are creating a threat that he or she or his or her family will be led into privation or poverty, shall be submitted to a court in accordance with such person's place of residence.

Section 272. Contents of an Application

(1) There shall be set out in an application the basis on which a trusteeship is to be established for the person and evidence such as corroborates this.

(2) In an application a request may be made for immediate securing of property against it being squandered, by application of the security measures provided for in Section 138 of this Law. A judge shall rule on such a request no later than the next day after receipt of the application.

[7 September 2006]

Section 273. Preparing a Matter for Adjudication

(1) A true copy of the application shall be sent to the person in relation to whom the establishment of a trusteeship has been initiated, setting out therein a time period of not more than 30 days for submission of an explanation.

(2) The court may impose a duty upon an applicant to submit supplementary evidence.

Section 274. Participation of a Public Prosecutor

A matter for establishing a trusteeship for persons due to their dissolute or spendthrift lifestyle or excessive use of alcohol or narcotics, shall be adjudicated with the participation of a public prosecutor.

Section 275. Court Judgment

(1) If the court has determined that a person living dissolutely or with a spendthrift lifestyle or excessively using alcohol or narcotics, is creating a threat that he or she or his or her family will be led into privation or poverty, the court pursuant to a judgment shall establish a trusteeship for this person and deprive him or her of the right to manage and act with his or her property.

(2) After a judgment has come into lawful effect a true copy of the judgment shall be sent to the Orphan's Court for a trustee to be appointed. A true copy of the judgment shall also be sent for registration in the Population Register, and if necessary for the entering of an endorsement in the Land Register.

(3) After the judgment has come into lawful effect the court shall send a notice for publication to the newspaper *Latvijas Vēstnesis*, in which shall be set out:

1) the name of the court that made the judgment;

2) the given name, surname and personal identity number of the person in relation to whom the judgment was made;

3) the fact that such person has been deprived of the right to manage and act with their property, and that a trusteeship has been established for such person; and

4) the day when the judgment comes into lawful effect.

[7 September 2006]

Section 276. Court Costs

(1) If the application is allowed, the court costs shall be adjudged against the property of the person for whom the trusteeship has been established.

(2) If the court has determined that the application is unfounded, the court costs shall be adjudged against the person pursuant to whose application the matter was initiated, but if the matter was initiated pursuant to an application of the Orphan's Court or of a public prosecutor, the court costs shall be covered from State funds.

[7 September 2006]

Section 277. Termination of a Trusteeship

(1) If the circumstances that were the basis for establishing a trusteeship cease, the same court, pursuant to the application of the trustee or the person under trusteeship, shall terminate the established trusteeship.

(2) After the judgment has come into lawful effect, a true copy of the judgment shall be sent to the Orphan's Court for the trustee to be discharged. A true copy of the judgment shall also be sent for making of an entry in the Population Register and, if necessary, for expungement of the endorsement in the Land Register.

(3) After a judgment has come into legal effect the court shall send a notice for publication to the newspaper *Latvijas Vēstnesis* in which shall be set out:

1) the name of the court that made the judgment;

2) the given name, surname and personal identity number of the person in relation to whom the judgment was made;

3) the fact that the trusteeship for this person has been terminated; and

4) the day on which the judgment comes into effect.

[7 September 2006]

Chapter 35

Establishing Trusteeship for the Property of Absent or Missing Persons

Section 278. Jurisdiction

Matters regarding trusteeship for the property of an absent or missing person shall be adjudicated by a court according to the last place of residence of the missing or absent person.

Section 279. Contents of an Application

(1) An application to establish a trusteeship for the property of an absent or missing person may be submitted by persons who have an interest in preserving the property of the absent or missing person or in protecting the rights of such person, or by a public prosecutor.

(2) There shall be set out in the application the facts as confirm the absence of the person and the location of this person's property regarding which it is necessary to establish the trusteeship.

(3) If the whereabouts of the absent or missing person are known, the court must summon them as an interested person.

Section 280. Court Judgment

(1) The court, having found that a submission is well founded, shall render a judgment regarding the establishment of a trusteeship for the property of the absent or missing person.

(2) After the judgment has come into lawful effect, the court shall send a true copy of the judgment to the Orphan's Court.

(3) After the judgment has come into lawful effect, the court shall send a true copy of the judgment to the absent person, if their place of residence is known; if it is not known, the court shall send an appropriate notice for publication in the newspaper *Latvijas Vēstnesis*.

[7 September 2006]

Section 281. Termination of Trusteeship

Upon the coming into effect of the circumstances specified in Section 375, Clause 1 of The Civil Law, a trusteeship may be terminated pursuant to the judgment of the court, which established the trusteeship.

Chapter 36 Declaring a Missing Person as Deceased

Section 282. Jurisdiction

An application to declare a missing person as deceased shall be submitted to a court according to the last place of residence of such person.

Section 283. Contents of an Application

There shall be set out in an application the given name, surname, personal identity number, if known, and year of birth of the missing person, the date when he or she left his or her place of residence and when the latest information about such person was received and, if possible, the place of birth of the missing person, and the given name, surname and other information about his or her parents.

Section 284. Notice regarding a Missing Person

(1) After accepting an application, the judge shall take a decision regarding publication of a notice in the newspaper *Latvijas Vēstnesis*, to be paid for by the applicant.

(2) There shall be set out in the notice:

1) the name of the court which received the application;

2) the given name, surname and year of birth of the person proposed to be declared deceased, and other information regarding him or her set out in the application ;

3) a stipulation that the missing person appear in court or advise as to his or her whereabouts within three months, and a statement that otherwise the person will be declared deceased; and

4) a request to anyone who knows the whereabouts of the missing person or who has knowledge of his or her death to notify the court within three months.

Section 285. Participation of a Public Prosecutor

Matters regarding the declaration of a missing person as deceased shall be adjudicated with a public prosecutor participating.

Section 286. Court Judgment

(1) The court, having found the application to be well founded, shall render a judgment regarding the declaration of the missing person as deceased.

(2) If the court has determined the presumed date of death of the missing person, it shall be set out in the judgment.

(3) If the court is unable to determine the presumed date of death of the missing person, the date of death of the missing person shall be deemed to be the date when the application was submitted to the court, concerning which the court shall make a statement in the judgment.

(4) After the judgment, pursuant to which the person has been declared deceased, has come into lawful effect, a true copy of the judgment shall be sent to the General Registry office to register the death of the missing person and to the Orphan's Court to establish a trusteeship over the property of the person declared deceased.

(5) After the judgment, by means of which the person has been declared deceased, has come into lawful effect, the Court shall send a notice for publication to the newspaper *Latvijas Vēstnesis* in which shall be set out:

1) the name of the court which made the judgment;

2) the given name, surname, year of birth and other personal data that have been determined regarding the missing person;

3) the fact that this person has been declared deceased; and

4) the presumed date of death of the missing person or the date this person is deemed to have died.

[7 September 2006]

Section 287. Consequences of the Appearance of the Person Declared Deceased

(1) If the person, who by court judgment has been declared deceased, appears or their whereabouts are determined, the court which rendered the judgment shall pursuant to a new judgment set aside the judgment which declared this person as deceased.

(2) An application to set aside a judgment may be submitted by the person who has been declared deceased, by the person pursuant to whose application the matter was initiated, or by a public prosecutor.

(3) After the court judgment comes into lawful effect, a true copy of the judgment shall be sent to the General Registry office for the registration of death to be annulled, and an appropriate notice shall be sent for publication to the newspaper *Latvijas Vēstnesis*.

Chapter 37

Determination of Juridical Facts

Section 288. Matters to be Adjudicated by the Court

(1) The court shall adjudicate matters regarding determination of such facts as affect the creation, varying or termination of property rights and other rights of natural or legal persons.

(2) The court shall determine facts regarding:

- 1) the kinship relationships of natural persons;
 - 2) a person's being maintained;
 - 3) the registration of adoptions, entering into and dissolution of marriages, and deaths;
 - 4) the ownership of documents (except passports and certificates issued by institutions which register civil status documents) that create rights for natural persons whose given name, patronymic, surname or date of birth do not correspond with those set out in a passport or birth certificate;
 - 5) the ownership of documents (except registration certificates) that create rights for legal persons whose name or registration data do not correspond with those shown in the registration certificate; and
- refuses to register a death.
- (3) The court shall also determine other facts that have legal significance, if the legal enactments in force do not provide for other procedures to determine such facts.

Section 289. Provisions Applicable to the Determination of Legal Facts

The court shall determine legal facts only if it is not possible through some other procedure for the applicant to obtain the relevant documents, which confirm such facts, or if such documents have been lost, stolen or destroyed and the possibility of renewing them is not available.

Section 290. Jurisdiction

An application to determine legal facts shall be submitted to the court according to the place of residence of the applicant.

Section 291. Contents of an Application

- (1) There shall be set out in an application the purpose for which the applicant requires a declaration of the relevant fact.
- (2) Corroborating evidence, which confirms the inability of the applicant to receive the relevant documents or to have reissued lost, stolen or destroyed documents, must be appended to the application.

Section 292. Court Judgment

- (1) Where an application is allowed, the court judgment shall state what facts have been determined and for what purpose.
- (2) A court judgment regarding determination of such facts may be registered in a General Registry office or formally recorded in other agencies, but shall not constitute a replacement of the documents issued by such agencies; however, after coming into legal effect such judgment shall constitute a basis for registration or formal recording by such agencies.

Chapter 38

Summoning Procedures regarding Extinguishing of Rights

Section 293. Matters as May be Adjudicated by way of Summoning Procedures

- (1) Summoning procedures are applicable only in the cases where provided for by law.

(2) Summoning shall be done on the basis of an application from the interested person, unless otherwise provided for by law.

Section 294. Submission of an Application

(1) In an application for summoning to be conducted and rights to be extinguished, the following shall be set out:

- 1) the facts upon which the request for summoning to be conducted are based, together with a reference to any corroborating evidence;
- 2) any interested persons known to the applicant; and
- 3) consequences if the persons summoned fail to attend.

(2) An application regarding extinguishing of rights as relate to immovable property shall be submitted to a court in accordance with the location of such property; but where the application is in regard to other rights, to a court in accordance with the applicant's location – the place of residence of a natural person or the location (legal address) of a legal person, unless prescribed otherwise by law.

Section 295. Preparation of Matters for Adjudication

(1) After an application has been accepted, a judge shall take a decision regarding the publication of a notice in the newspaper *Latvijas Vēstnesis*, to be paid for by the applicant.

(2) There shall be set out in the notice:

- 1) the name of the court which received the application;
- 2) the applicant's given name and surname – but in regard to a legal person, its name;
- 3) the basis for the summoning and the subject-matter to which the summoning relates;
- 4) the time period for making an application regarding rights; and
- 5) the consequences of failing to comply with a time period.

(3) The time period, if it is not prescribed by law, shall be determined by the court, but it must not be less than three months from the date of publication of the notice.

(4) If the summoning is in regard to rights related to immovable property or to claims secured by a mortgage, the notice shall also be posted in the relevant Land Registry Office.

Section 296. Adjudication of Applications

(1) A matter shall be adjudicated by the court after the expiry of the time period stated in the notice; the applicant, interested persons indicated by the applicant and persons who have submitted a claim within the time period shall be summoned.

(2) An application in regard to rights, that has been submitted after the time period stated in the notice but prior to judgment being rendered in the matter, shall be considered to be submitted within the time period.

(3) If, in connection with the summoning, a dispute arises with respect to rights that may affect the judgment in the matter, the court shall suspend the court proceedings, and set a time period for the bringing of an action.

(4) If an action is not brought within the time period set, or a judgment is issued regarding the deciding of the dispute, the court proceedings shall be renewed.

Section 297. Court Judgment

(1) Where an application is allowed, the court shall render judgment declaring that all rights, regarding which application has not been made within the time period, are invalid, except those mentioned in Section 327, Paragraph two of this Law.

(2) The extinguishing of rights is not an impediment to the bringing of an action in accordance with general procedures in the cases as provided for in Section 327, Paragraph three of this Law.

Chapter 39

Renewal of Rights based on Debt Instruments or Bearer Securities

Section 298. Submission of Application

In cases where a debt instrument of bearer security has been lost, stolen or destroyed, the creditor or person to whom the document has been pledged, given for safekeeping, administering, or on commission or entrusted in some other way, and the last holder of the document if it was endorsed to bearer or the endorsement was in blank, may petition the court to cancel such document and thereafter renew the rights related to it.

Section 299. Jurisdiction

An application for the cancelling of a lost, stolen or destroyed document and renewal of rights related to it shall be submitted to a court in accordance with the payment location indicated on the document, but if the payment location is not known, then to a court in accordance with the location of the debtor – their place of place of residence if the debtor is a natural person, or their legal location (legal address) if the debtor is a legal person – and if the location of the debtor is also unknown, then in accordance with the location where the document was issued.

Section 300. Contents of an Application

(1) There shall be set out in an application for cancellation of a lost, stolen or destroyed document the following:

1) the given name, surname, personal identity number and place of place of residence of the applicant, but if the applicant is a legal person, its name, registration number and location (legal address);

2) the given name and surname (name) and place of place of residence (address) of the person who issued the document, and the given name and surname (name) and place of place of residence (address) of the person who, in accordance with the document, must perform the obligation. Also, the personal identity number or registration number of such person, if known, shall be set out;

3) the name, contents and identifying features of the document; and

4) the circumstance in which the document was lost, stolen or destroyed.

(2) Where possible, a true copy of the document shall be appended to the application.

Section 301. Preparation of a Matter for Adjudication

(1) After an application is accepted, a judge shall take a decision regarding:

1) the enjoining of persons, who according to the document must perform an obligation, from making payment monetarily or otherwise pursuant to such document; and

- 2) publication of a notice in the newspaper *Latvijas Vēstnesis*.
- (2) There shall be set out in the notice the following:
- 1) the name of the court in which the application was received;
 - 2) the given name and surname of the applicant, but if the applicant is a legal person, their name and location (legal address);
 - 3) the name, contents and identifying features of the lost, stolen or destroyed document; and
 - 4) a stipulation regarding the submitting to the court – within three months, but in the case of a promissory note or a cheque within two months from the day the notice is published – of an application by the holder of the document, in regard to the holder's right to this document, and a statement that in the absence of such submission the document may be declared cancelled.
- (3) The court shall send a true copy of the decision, as provided for in Paragraph one, Clause 1 of this Section, to the person who according to the document must perform the obligation and also, if possible, notify all persons mentioned in the document regarding the decision.

Section 302. Duty of the Holder of the Document

- (1) It is the duty of the holder of the document, after the notice has been given regarding the loss, theft or destruction of the document, to submit, within the time period set out in the notice, to the court which took the decision, an application regarding his or her rights with respect to this document together with the original of the document.
- (2) If the holder of the document has not submitted such application, but the cancellation of the document infringes his or her rights, he or she may defend his or her infringed rights in accordance with the procedures for court proceedings by way of action.

Section 303. Actions by the Court Following Receipt of an Application from the Holder of the Document

- (1) If an application from the holder of the document is received by the court within the time period set out in the notice, the court shall leave unadjudicated the application of the person requesting cancellation of the document and shall set a time period during which any payments, monetary or otherwise, made in accordance with the document are prohibited. Such time period shall not exceed two months.
- (2) The court shall, at the same time, explain to the applicant his or her right to bring an action against the holder of the document to reclaim such document, and to the holder of the document his or her right to recover from the submitter losses caused as a result of injunctive measures determined by the court.
- (3) An ancillary complaint may be submitted regarding the decision of the court.

Section 304. Adjudication of a Claim

- (1) The court shall adjudge a matter regarding cancellation of a document and renewal of rights related to it after expiration of the time period set out in the notice, provided an application has not been received from the holder of the document.
- (2) The court shall notify the submitter and the person who issued the document and, where possible, all persons mentioned in the document, regarding the time when and place where the matter is to be adjudicated. The failure of such persons to attend is not an impediment to the adjudicating of the matter.

Section 305. Court Judgment

- (1) If the court finds that the document set out in the application has been lost, stolen or destroyed and that the applicant was the lawful holder of such document, it shall render judgment regarding the cancellation of the document and renewal of the rights of the applicant related to it.
- (2) A court judgment that has come into lawful effect shall be a basis for issuing a new document to replace the cancelled document, if such is provided for by law.
- (3) If the law does not provide that a new document may be issued, the judgment shall be a basis to make a claim regarding realisation of rights arising from the cancelled document.

Chapter 40

Reading and Coming into Legal Effect of Last Will Instruction Instruments

Section 306. Submission of Last Will Instruction Instruments to the Court

- (1) A person or institution in possession of a last will instruction instrument (hereinafter – also a will) shall, upon the death or the declared death of the testator, submit it without delay to the court in accordance with the last place of place of residence of the testator, but if such is not known, then in accordance with the location of the property or the bulk of the property. The submitter of the last will instruction instrument shall indicate all heirs known to them and the places of place of residence of the heirs.
- (2) A mutual will shall be submitted to the court as soon as one of the testators dies.

Section 307. Determination of when a Last Will Instruction Instrument Shall be Read

As soon as a last will instruction instrument has been submitted, the judge to whom adjudication of the matter has been assigned shall without waiting for a petition therefor, pursuant to a written decision determine the day when the instrument shall be read. A notice regarding this shall be posted in a place in the court visible to everyone and all known heirs shall be notified.

Section 308. Procedure for Reading a Last Will Instruction Instrument

- (1) On the date set, the court, in open sitting, shall open the last will instruction instrument and, in accordance with the procedures prescribed in Section 170 of this Law, shall examine witnesses, who have signed the instrument, regarding the authenticity of their signatures. After that the entire last will instruction instrument shall be read.
- (2) If there is more than one last will instruction instrument, all such last will instruction instruments shall be opened and read. Instruments, which are asserted to be unlawful or fraudulent, shall also be opened and read. In reading a last will instruction instrument, the provisions of Section 785 of The Civil Law shall be complied with.
- (3) If there are several original copies of the last will instruction instrument, all with the same content, only one of them shall be read. The reading of a true copy is not equivalent to reading the original, except where the original is lost or if it cannot soon be submitted; in such case the interested persons shall nevertheless prove that the last will instruction instrument actually exists and, if the true copy thereof is not properly witnessed, must also prove its contents.
- (4) Only documents or a letter from the testator in which the true copy of the will is mentioned, or the testimony of witnesses who are mentioned in such copy as witnesses of the will, may be considered as evidence in regard to the contents of a will.

(5) Minutes of the court sitting must be drawn up regarding the entire process of the opening and reading the last will instruction instrument, in which minutes must be fully recorded not only all of the bequests included in each will but also information regarding the following:

- 1) if the instrument had been sealed, whether the seals were intact;
- 2) which of the witnesses participated in the court sitting and what testimony they provided;
- 3) whether there were objections as to the authenticity of the last will instruction instrument, and whether it was lawfully valid; and
- 4) whether there were any peculiarities in the instrument – corrections, erasures, and crossings-out.

Section 309. Establishing the Existence of an Oral Will

(1) If a testator has expressed their last will orally, the court, pursuant to an application by interested parties, may determine and formulate an oral will. For this purpose the court shall summon witnesses who were present when the testator expressed his or her will, and in the court sitting such witnesses shall be examined regarding the given name, surname, and age of the testator, the content of the oral will and the location and time of the making of the will, and other circumstances which relate to the making of the will and could affect its lawful validity. The testimony of witnesses shall be recorded in the minutes of the court sitting, such minutes shall be read out and the witnesses shall sign them.

(2) After the witnesses have provided their testimony, the court shall formulate in writing the contents of the oral will. The decision shall be read out at a court sitting.

(3) If the court, having assessed the testimony of the witnesses, finds that an oral will may not be formulated on the basis of such testimony, the court shall, pursuant to a judgment, decline pronouncing an oral will.

(4) If the court determines that a written testamentary instrument exists, the court shall leave the matter unadjudicated.

Section 310. Activity of the Court if the Will Contains a Bequest to Generally Benevolent and Charitable Purposes

Following the reading of a will containing a bequest to generally benevolent and charitable purposes, the court shall send to a public prosecutor an excerpt from the will together with information on the executor of the will or the given names, surnames and places of place of residence of the persons who submitted the will for the reading thereof.

Section 311. Invitation to the Opening of Succession

(1) After the reading of the testamentary instrument has taken place, the court, in accordance with the provisions of Section 326 of this Law, shall publish an invitation regarding the opening of succession.

(2) If there is a time period set out in the will regarding acceptance of the inheritance, the court shall have regard to this in setting a time period for the invitation.

Section 312. Rights of Heirs and Interested Parties

(1) Until a will comes into lawful effect, it shall be kept in the court so that interested parties can become acquainted with it. There may be issued to heirs, pursuant to their request, a true copy of

the will with an endorsement that it has been read and conforms to the formal requirements prescribed by law but has not yet come into lawful effect.

(2) Within the time limit set out in the invitation, testamentary heirs have the right to submit an application to the court regarding recognition of the testamentary instructions as being in effect, and a person, whose rights are infringed upon by the last will instructions – to submit objections and to contest the will.

Section 313. Application Regarding the Coming into Lawful Effect of a Last Will Instruction Instrument

(1) A person who wishes to inherit shall submit an application to the court regarding the coming into lawful effect of the last will instruction instrument, appending thereto the last will instruction instrument if this instrument is not already available to the court (Section 306 of this Law).

(2) There shall be included in the documents accompanying the application the following:

- 1) the death certificate of the testator;
- 2) evidence confirming the testator's last known place of residence;
- 3) an inventory and valuation of the property to be inherited; and
- 4) a receipt for payment of State fees.

(3) There shall be set out in the application all heirs known to the applicant.

Section 314. Procedure Regarding the Contesting of a Will

(1) If an interested party disputes a last will instruction instrument, the court shall stay court proceedings in the matter regarding the coming into effect of the last will instruction instrument and, if necessary, set a time period for bringing an action. If an action is not brought within the set time period, the court shall resume court proceedings and adjudicate the matter regarding the coming into effect of the last will instruction instrument.

(2) If, in accordance with the procedures applicable to actions, the last will instruction instrument is declared invalid in its entirety, the court shall terminate the court proceeding being conducted pursuant to special adjudication procedures.

(3) If, in accordance with the procedures applicable to actions, part of the last will instructions instrument is declared invalid, the court shall declare the rest of it to be in effect.

(4) If, in a matter regarding a last will instruction instrument coming into effect, the forced heirs apply for rights to the estate in accordance with the law and if there is no dispute among the interested parties regarding rights to the estate, the court shall adjudicate such application within the same matter.

Section 315. Adjudicating an Application

(1) The court shall adjudicate an application when the time period set out in the notice has elapsed.

(2) The applicant and interested parties shall be summoned to the court sitting.

Section 316. Judgment Regarding the Coming into Lawful Effect of a Last Will Instruction Instrument

(1) Where a court finds that an application is well-founded, the court shall render judgment that the last will instruction instrument is in lawful effect.

(2) In the judgment the court shall decide as to the extinguishing of rights not applied for within the time period.

(3) The original instrument, together with the judgment, woven through with thread and sealed, and with an endorsement that the will has been read and has come into legal effect, shall, after the judgment has come into lawful effect, be issued to the heir or the executor of the will, unless the testator has given other instructions. The original of the last will instruction instrument shall be issued only after the State fees and other court costs have been paid.

Chapter 41

Protection of Estates and Trusteeships

Section 317. Jurisdiction regarding, Basis for and Means of Protection of Estates

(1) Protection of estate property shall be provided for by a court in accordance with the last place of residence of the estate-leaver. A court, which has accepted an application, may, if the estate property is located in the territory of another court, assign the providing of protection of the estate property to such other court.

(2) Protection of the property of the deceased may be petitioned for by:

- 1) an heir;
- 2) the executor of a will or trustee of an estate;
- 3) the administration of the place of employment of the deceased person – but only with respect to money, things or documents related to such place of employment and as are part of the property of the deceased; and
- 4) creditors – with respect to such claims as have been adjudged or secured in their favour by a court judgment. In such case only that part of the property shall be protected as is necessary to satisfy the claims referred to.

(3) In cases provided for by law (Section 659 of the Civil Law) the court shall provide for protection of the estate pursuant to notification by any person, if the court is certain of the death of the estate-leaver.

(4) Having determined that there is a basis for protection of the estate, the judge shall take a decision regarding it.

(5) The means for protection of the estate shall be:

- 1) sealing of;
- 2) taking of inventory and valuation of; or
- 3) placing in storage of, the estate property.

Section 318. Sealing of the Estate Property

(1) The estate property shall be sealed only if the interested parties so request, or if a judge finds that sealing is required, or good cause is shown that it is not possible to take an inventory of the property without delay.

(2) Sealing shall be carried out by a bailiff in the presence of at least two witnesses summoned therefor and by sealing the place of storage of the things or sealing the things themselves. The persons set out in Section 317 of this Law may be present at the sealing.

(3) Prior to sealing, the bailiff shall take depositions from persons, if there are such persons, who have resided in the same building or apartment with the deceased, affirming that they have not hidden any of the remaining property and that they do not know of any part of the property being hidden, taken or removed.

(4) If notification is received that there is a will among the things of the deceased, the bailiff shall search for it first of all. If a will is found, the bailiff shall send it unopened to the judge, on the basis of whose decision the sealing shall be performed.

(5) Securities, cash and valuables found shall be provided for safekeeping in accordance with procedures set out in law.

(6) Things regarding which third persons have made claims shall be sealed and the submitted claim shall be set out in the statement regarding the sealing.

(7) The bailiff shall record in the statement all actions related to the sealing, and the statement shall be signed by all persons summoned. The statement, together with all applications, must be submitted to the court on the basis of whose judgment the sealing was performed.

Section 319. Things as shall not be Sealed

Things that are necessary for everyday use by the persons remaining in the building or apartment of the deceased, as well as things, which because of their nature can not be sealed, shall not be sealed. A list shall be made of the things not sealed.

Section 320. Removal of Seals

(1) A decision regarding the removal of seals from sealed property shall be made either by a judge of the court whose decision was the basis for sealing the things, or by the court adjudicating the estate matter.

(2) If sealing is performed because the heirs are unknown or are absent, the seals may be removed after a trustee has been appointed for the estate.

(3) Seals shall be removed by a bailiff in the presence of at least two witnesses.

(4) Persons indicated in Section 317, Paragraph two of this Law and persons who have made a claim in regard to the sealed things have the right to be present when the seals are removed. The bailiff shall notify such persons regarding the time when the seals are to be removed.

(5) All actions of the bailiff related to the removal of the seals shall be recorded in a statement, which shall be signed by the witnesses, and the interested persons mentioned in Paragraph four of this Section who are present. The statement shall be submitted to the court pursuant to whose decision the seals were removed.

Section 321. Taking Inventory of Estate Property

(1) Taking inventory and valuation of estate property shall, pursuant to the decision of a judge, be performed by a bailiff in the presence of at least two witnesses and in accordance with the procedures prescribed by law. If the taking of inventory is commenced without the things previously being sealed, the provisions of Section 318, Paragraphs three, five, six and seven of this Law shall be complied with.

(2) Where it cannot be postponed, inventory, pursuant to the decision of a judge, may be commenced without waiting until interested persons have been notified about the time period set for taking such inventory.

(3) The bailiff shall draw up a statement regarding the taking of inventory, which statement shall be signed by the witnesses, and the interested persons mentioned in Section 317, Paragraph two of this Law who are present. The statement shall be submitted to the court whose decision the taking of inventory and valuation was conducted pursuant to.

Section 322. Storage of Sealed or Inventoried Property

(1) The sealed or inventoried property shall be provided to the trustee for safekeeping, but if a trustee has not been appointed, to another person in accordance with the procedures prescribed in this Law.

(2) Things, which are being claimed by third persons, may be given to them pursuant to the decision of a judge, if such property indubitably belongs to these parties and if any interested person does not dispute such transfer.

(3) Things, which spoil quickly, shall be sold without delay, on the basis of a decision by a judge, but money received for them shall, after deduction of the costs incurred in the sale, be deposited in a deposit account of the bailiff's office.

Section 323. Trusteeship for an Estate

If the court adjudicating an estate matter considers it necessary to establish a trusteeship in regard to the estate, the court shall take a decision regarding this, and such decision shall be sent to the Orphan's Court for implementation.

[7 September 2006]

Chapter 42 Announcement of Opening of Succession

Section 324. Basis of Announcement

(1) A court or judge shall announce the opening of succession pursuant to their own initiative or the petition of interested persons.

(2) An application for notification may be submitted by an heir (substitute, successor), the executor of the will, a trustee or any person who has made a claim against the estate as legatee or creditor.

Section 325. Application for Announcement

(1) An application for announcement shall be submitted to the court in accordance with the last place of place of residence of the estate-leaver, but if such is unknown, then in accordance with the location of the estate or the bulk thereof.

(2) There shall be set out in the application:

1) the facts which are the basis for the petition for announcement, and evidence corroborating them;

2) persons interested in the matter as are known to the applicant, and the place of place of residence of such persons; and

3) the consequences of failure of summoned persons to attend.

Section 326. Procedures in regard to Announcement

(1) In the announcement the court shall invite all those who have rights to the estate as heirs, creditors or in some other capacity to make application, indicating that where they do not make application regarding their rights within the time period stated in the invitation, the rights in regard to which application has not been made shall be extinguished. If the announcement takes place in connection with the reading of a will, the court shall, in the announcement, also invite persons who

have objections to the will to make application in regard to their rights, indicating that otherwise such persons shall be deemed to have withdrawn their objections.

(2) An announcement regarding the opening of succession shall be published in the newspaper *Latvijas Vēstnesis*, but if the value of the property left by the estate-leaver does not exceed one thousand lats according to the information available to the court, the announcement shall only be posted in a publicly visible place on the court premises.

(3) The court shall without delay notify all interested persons known to the court regarding the announcement and the contents thereof.

Section 327. Effect of the Announcement

(1) Rights, in regard to which application has not been made within the time period in the announcement, shall be extinguished.

(2) The effect of the notification does not apply to:

- 1) a claim registered in the Land Register, except for interest and other ancillary complaints;
- 2) a claim that has been submitted to the court prior to the announcement of the opening of succession; and
- 3) claims known to an heir.

(3) Where persons fail to make application in regard to their rights within the time period stated in the announcement, the extinguishment of such rights is not an impediment to the bringing of an action in accordance with general procedures, if:

- 1) provisions of law regarding the content of the announcement or the procedures in regard to the announcement have not been complied with;
- 2) a judgment is rendered in the matter prior to the expiry of the term for making application in regard to rights set out in the announcement;
- 3) the court has left unadjudicated an application regarding rights submitted within the time limited;
- 4) there is substantially significant false information submitted in the application regarding the announcement; or
- 5) falsification is proved in regard to the documents accompanying the application.

Chapter 43 Accepting an Inheritance

Section 328. Invitation for Heirs to Declare their Position Regarding the Inheritance

(1) If heirs have not declared their intention to accept the inheritance, the creditors and legatees of the estate-leaver, as well as substitutes and successors, may submit to the court which has jurisdiction over the estate matter, an application to require the heirs to declare their position regarding acceptance of the inheritance.

(2) There shall be set out in the application:

- 1) the persons invited to inherit, if such persons are known;
- 2) the basis for inheriting: will, contract or law; and
- 3) the applicant's claim regarding the estate.

(3) If the heirs are known, the court, without announcing the opening of succession, shall adjudicate the application at a court sitting to which the heirs set out in the application have been summoned,

(4) The court, without verifying the validity of the applicant's claim, shall hear the explanations of the heirs present, determine whether the estate is in the possession of an heir, and set the time

period within which the heirs must give notice as to whether they do or do not wish to accept the inheritance.

(5) If the heirs are unknown to the applicant or fail to attend the court session, the court, in accordance with the provisions of Section 326 of this Law shall announce the opening of succession in the newspaper *Latvijas Vēstnesis* and give notice to the known heirs thereof.

(6) If the heirs have not applied within the time limited in the notice or if they have renounced their inheritance, the court shall terminate the proceedings in such matter and shall notify the Ministry of Finance regarding the property without heirs.

Section 329. Acceptance of an Estate on the Basis of Rights of Inventory

(1) An application regarding acceptance of an estate on the basis of right of inventory (Section 709 of The Civil Law) shall be submitted to the court, which has jurisdiction over the estate matter.

(2) An application may be submitted within two months from the day when the heirs knew the opening of succession.

(3) After an application is received, the court or judge shall take a decision regarding the drawing up of an inventory list, which shall be given to the bailiff for execution, or to the relevant Orphan's Court.

[7 September 2006]

Section 330. Renouncing an Inheritance

(1) A submission regarding renouncement or refusal of an inheritance (Sections 609, 651, 689 and 775-783 of The Civil Law) may be submitted in writing to the court which has jurisdiction over the estate matter, or presented at a court sitting.

(2) A submission regarding renouncement or refusal of an inheritance, presented at a court sitting by a person who has been invited to inherit, shall be recorded in the minutes of the court sitting and shall be signed by the relevant person invited to inherit.

Chapter 44 Confirmation of Rights of Intestate Succession

Section 331. Application to Confirm Rights of Inheritance

(1) Heirs at law may submit an application to the court to confirm their rights of inheritance.

(2) Applications shall be submitted to the district (city) court in accordance with the last place of place of residence of the estate-leaver, but if such is unknown, then in accordance with the location of the estate or the bulk thereof.

(3) There shall be set out in the application all of the interested persons, and the property to be inherited and the value thereof. Evidence confirming the right of the applicant to inherit shall be appended to the application.

Section 332. Announcement of Invitation to the Opening of Succession

Following the receipt of an application, an announcement of invitation to the opening of succession shall be made by the judge or court, in accordance with the procedures prescribed in Section 326 of this Law.

Section 333. Adjudication of Applications

- (1) The court shall adjudicate an application when the time period set out in the invitation has expired.
- (2) The applicant and interested parties shall be summoned to the court sitting.

Section 334. Judgment Regarding Confirmation of Rights of Inheritance

- (1) Where it finds that an application is well-founded, the court shall render judgment regarding confirmation of the rights of inheritance of the applicant to the whole estate or to a specified undivided share thereof.
- (2) In the judgment the court shall decide in regard to the extinguishing of rights not applied for.
- (3) In confirming the rights of inheritance of applicants, regard shall not be had to any mutual agreements which have been made between heirs but which do not conform to law.

Section 335. Leaving Applications Unadjudicated

If a dispute regarding rights to an estate arises in a matter, such as is required to be resolved in accordance with procedures applicable to actions, the court shall leave the matter unadjudicated.

Chapter 45

Pre-emption of Immovable Property

Section 336. Jurisdiction regarding Matters

Applications regarding pre-emption of immovable property shall be submitted to the court in accordance with the location of the immovable property subject to pre-emption.

Section 337. Substance of Applications

- (1) There shall be set out in an application the location of the immovable property subject to pre-emption, the acquirer thereof and the basis for the right of pre-emption (Section 1382 of the Civil Law).
- (2) There shall be appended to the application:
 - 1) a true copy of the instrument on the basis of which the immovable property has been alienated;
 - 2) evidence regarding the right of the applicant to pre-empt the immovable property; and
 - 3) information regarding the sale price of the immovable property, alienation costs and fees, and payment thereof.

Section 338. Sending a True Copy of the Application to the Acquirer of the Immovable Property

The court shall send a true copy of the application to the acquirer of the immovable property, setting out a term of one month for submission of explanations and providing of information regarding necessary and useful expenditures incurred in regard to the immovable property.

Section 339. Adjudication of Applications

Applications shall be adjudicated at a court sitting to which the applicant and the acquirer of the immovable property shall be summoned.

Section 340. Court Judgment

Where it finds that the application is well founded, the court shall render judgment regarding the right of pre-emption of the applicant in regard to the immovable property and the right of the acquirer of the pre-empted immovable property to compensation for expenditures.

Section 341. Leaving Applications Unadjudicated

If the acquirer of the immovable property disputes the right of pre-emption of the applicant, the court shall leave the application unadjudicated, and explain to the participants in the matter that the dispute is required to be resolved in accordance with the procedures applicable to actions.

Chapter 46 Matters Regarding Insolvency of an Undertaking or a Company

Section 342. Jurisdiction in regard to Matters

(1) Matters regarding the insolvency of an undertaking or a company shall be adjudicated by a court in accordance with the location (legal address) of the undertaking or company.

(2) Matters regarding the commencement of insolvency proceedings specified in Article 3, Paragraph 1 of Council regulation No. 1346/2000 shall be adjudicated by a court according the location of the centre of the debtor's main interests, but matters regarding the commencement of insolvency proceedings specified in Article 3, Paragraph 2 of this regulation – according the location of the debtor's undertaking (within the meaning of Article 2, Paragraph "h" of the referred to regulation).

[25 May 2006]

Section 343. Insolvency Petition

(1) An insolvency petition may be submitted to the court by:

- 1) a debtor or the liquidator of the debtor (liquidation commission);
- 2) an unsecured creditor, a group of unsecured creditors, and a secured creditor if the claim is not secured in full;
- 3) the administrator in an insolvency matter – in regard to a third person who has a debt obligation to the undertaking or company represented by the administrator;
- 4) State and local government institutions, as set out by law; and
- 5) the person indicated in Article 29, Paragraph "a" of Council regulation No. 1346/2000.

(2) There shall be set out in the petition at least one element of insolvency as provided for by law, as well as evidence to be submitted in confirmation thereof, and documents as set out in the Law On the Insolvency of Undertakings and Companies.

[25 May 2006]

Section 344. Receipt and Registration of Insolvency Petitions

- (1) The court shall accept an insolvency petition from a person in whose name the petition is submitted, or from a person who has been authorised to submit such petition.
- (2) The identity of the submitter shall be verified when a petition is received. If it is not possible to verify such identity or the submitter does not have the appropriate authorisation, the petition shall not be accepted.
- (3) Insolvency petitions shall be registered in a separate register, in which the submitter and the recipient shall sign.

Section 345. Initiation of a Matter

- (1) The judge shall take a decision, regarding initiation of an insolvency proceeding or refusal to accept an insolvency petition, not later than the day following receipt of the petition in court, but if the petition is left not proceeded with, then not later than the day following the rectifying of deficiencies indicated in the judge's decision or following the expiry of the time period for rectifying deficiencies.
- (2) Upon a matter being initiated, the court shall take a decision regarding attachment of the debtor's monetary resources, which are placed in the debtor's accounts in credit institutions, publicly circulated securities or fixed assets.
- (3) Pursuant to the petition of the submitter, the court shall take a decision to also impose attachment upon other property of the debtors if such is necessary and if such attachment does not significantly hinder the continuation of commercial activities.
- (4) If an insolvency petition is submitted in regard to such undertaking as the owner of the undertaking is liable to the extent of the owner's own property for the obligations thereof, the court shall take a decision to impose attachment upon the owner's property.
- (5) A writ of execution regarding the attachment of the debtor's property shall be issued to the submitter of the application or on the basis of a petition of the administrator – to the administrator, or on the basis of a request by the insolvency proceedings liquidator referred to in Article 3, Paragraph 1 of Council regulation No. 1346/2000 – to the referred to liquidator.
- (6) The decisions referred to in Paragraphs two, three and four of this Section shall be executed according to the procedures specified in Section 142 of this Law.
- (7) The decision of the judge regarding refusal to accept a petition and returning of the petition to the submitter of the petition may be appealed on the basis of Section 441, Paragraph one, Clause 2 of the Civil Procedure Law.

[31 October 2002; 19 June 2003; 25 May 2006]

Section 346. Activities of a Judge in Preparing a Matter for Adjudication

- (1) True copies of the decision of a judge regarding the initiation of an insolvency matter shall be sent on the day the decision was taken to:
 - 1) the State Agency “Maksātnespējas administrācija” [Insolvency Administration] (hereinafter – Agency), which within a period of three days from the moment of the receipt of the true copy shall submit to a court nominations regarding candidates for the position of administrator; and
 - 2) the Finance and Capital Market Commission if the decision has been taken in respect of a participant specified in the Law On Final Accounting Payment and Financial Instrument Accounting Systems.

(2) Pending the judgment of the court the candidate for the administrator proposed by the Agency shall be appointed as administrator by a decision of the judge.

(3) [31 October 2002]

(4) [31 October 2002]

(5) Persons regarding whom there are impediments provided for by law to their appointment as administrators, may not be appointed as administrators. If the judge by his or her decision does not appoint as administrator the candidate for the position of administrator nominated by the Agency, the Agency shall without delay propose another candidate for administrator.

(6) The appointed administrator shall:

1) determine the persons, who in accordance with law, are representatives of the debtor, and shall draw up a list of such persons;

2) prepare a report of the debtor's monetary resources as are in bank accounts and on hand, and of the value of the debtor's fixed and current assets;

3) ascertain property as belongs to third persons, but which is in the possession of or held by the debtor, and shall draw up a list of such property;

4) draw up a list of secured and unsecured creditors on the basis of the debtor's existing accounting data;

5) prepare an opinion regarding the fact whether the insolvency proceedings specified in Article 3, Paragraph 1 or 2 of Council regulation No. 1346/2000 should be commenced; and

5) submit the lists referred to in Clauses 1, 3 and 4, the report referred to in Clause 2 and the opinion referred to in Clause 5 to the court up to the adjudicating of the matter or the time period set out in the decision of the judge.

(7) [20 June 2001]

(8) [20 June 2001]

[20 June 2001; 31 October 2002; 12 February 2004; 25 May 2006]

Section 347. Adjudication of Insolvency Matters

(1) The court shall adjudicate an insolvency matter within 15 days from the day the matter is initiated.

(2) The submitter of the insolvency petition, the debtor and the administrator shall be summoned to the court sitting.

(3) In an insolvency matter, withdrawal of or varying of the petition shall not be allowed.

(4) In the course of adjudicating the matter, the court shall determine whether any of the elements of insolvency, as set out in law, exist in regard to the undertaking or company.

Section 348. Court Judgment in Insolvency Matters

(1) If the court determines that any of the elements of insolvency exist in regard to the undertaking or company, it shall, pursuant to its judgment, find the debtor insolvent and shall state the day when the insolvency comes into effect. As the day when the insolvency came into effect shall be found the day when the insolvency petition was submitted, unless the court determines that de facto insolvency came into effect on an earlier day.

(1¹) If the court renders a judgment regarding the commencement of insolvency proceedings against the debtor specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000, the procedures specified in Paragraph one of this Section shall not be applied.

(2) In rendering judgment regarding the insolvency of a debtor, the court shall confirm the appointed administrator.

(2¹) In rendering judgment regarding the insolvency of a debtor, the court shall decide whether to impose upon the administrator a duty to publish a notice regarding insolvency proceedings of the debtor in the official gazette of other Member States of the European Union (hereinafter – other Member States) in which territory the debtor's undertaking or property is located within the meaning of Article 2, Paragraph "h" of Council regulation No. 1346/2000, if the administrator has the discretion to publish in another Member State such a notice and the court has commenced against the debtor the insolvency proceedings specified in Article 3, Paragraph 1 of the referred to regulation.

(3) The court shall, on the basis of the list of representatives of the debtor submitted by the administrator, determine those representatives of the debtor for whom it is mandatory to participate in the insolvency proceedings.

(4) Pursuant to the substantiated request of the administrator, the court may set an abridged time period for the submission of the claims of creditors.

(5) If it is not determined that there exist elements of insolvency in regard to an undertaking or company, the court shall dismiss the petition, and at the same time terminate the insolvency proceedings and take a decision on the issue of whether the petition should be considered to be unfounded or knowingly false in accordance with the Law On Insolvency of Undertakings and Companies.

(6) Where a court considers a petition unfounded or knowingly false, the court shall recover from the submitter of the petition the court costs and the administrator's remuneration. In other cases such expenditures shall be recovered from the debtor.

(7) In insolvency matters the judgment of the court is final and may not be appealed through appellate procedures.

[20 June 2001; 31 October 2002; 25 May 2006]

Section 349. Court Activities following Declaration of Insolvency

(1) Following the pronouncement of judgment in an insolvency matter, the court shall issue to the administrator four true copies of the judgment, certified pursuant to the prescribed procedures, with an endorsement regarding the coming into effect of the judgment.

(2) The judge shall warn the debtor's representatives set out in the judgment, and they shall sign in regard to receiving such warning, that:

1) it is their duty to attend all creditors meetings and court sittings, and that failure to attend shall not be an impediment to the holding of a creditors meeting or court sitting; nevertheless, the court may find that the attendance of a debtor's representative is mandatory and require the debtor's representative to be brought by forced conveyance;

2) it is their duty to provide necessary information to the court, creditors meeting and administrator;

3) in case their place of residence changes, they must provide the new address to the administrator and the court within a period of three days; and

4) for failure to perform their duties, they may be held to liability as prescribed by law.

(3) Pursuant to the petition of the administrator, the judge shall take a decision regarding the release of attached property and the transfer thereof to the administrator.

[9 June 2005]

Section 350. Issues to be Decided by the Court after a Declaration of Insolvency

(1) After a court declares a debtor insolvent on the basis of the relevant application, it shall decide as to:

- 1) confirmation or setting aside of a settlement;
 - 2) concluding of bankruptcy procedures;
 - 3) termination of insolvency proceedings;
 - 4) the resignation or discharge of the administrator and appointment of another administrator;
 - 5) approval of a statement of auction of immovable property;
 - 6) expungement of the insolvency endorsement in the Land Register;
 - 7) approval of finalisation of restoration; and
 - 8) performance of the activities specified in Articles 33 and 37 of Council regulation No. 1346/2000.
- (2) The court shall also adjudicate complaints regarding the decisions of the creditors committee, creditors meetings and decisions of the Agency, and decide other issues relevant to the insolvency proceedings.
- (3) The court may, in connection with adjudication of issues noted in this Section, request that the administrator submits a report of his or her activities, but an insolvency proceedings liquidator specified in Article 3, Paragraph 1 of Council regulation No. 1346/2000 – information, which is necessary for the rendering of the adjudication specified in this Section.
- (4) The court shall adjudicate applications and complaints within 15 days of their receipt. The following shall be invited to the court sitting: the submitter of the application or complaint, the administrator, the debtor's representatives, and other interested persons. The failure of such persons to attend is not an impediment to adjudication of the issue in the court sitting. Nevertheless, the court may declare attendance of the debtor's representatives to be mandatory and require them to be brought by forced conveyance.
- (5) The court shall take decisions in regard to the adjudication of applications and complaints, which decisions may not be appealed.
- (6) The submitter of a complaint has the right to withdraw his or her complaint so long as the adjudicating of the matter on the merits is not completed. If the submitter of the complaint withdraws the submitted complaint, the court shall take a decision regarding termination of the court proceedings in the insolvency matter.
- (7) In deciding regarding the performance of the activities specified in Article 3, Paragraph 1 of Council regulation No. 1346/2000, the court shall determine whether the referred to activities are in the interests of the insolvency proceedings creditors specified in Article 3, Paragraph 1 of the regulation, and shall determine the appropriate measures in the insolvency proceedings commenced by the court specified in Article 3, Paragraph 2 of the regulation to ensure the interests of the creditors, as well as determine what shall be the consequences of suspending bankruptcy proceedings (also in the course thereof accepted restoration or settlement procedures).
- (8) In deciding regarding the performance of the activities specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000, the court shall ascertain that the continuation of the activities referred to in Article 3, Paragraph 1 of the regulation are no longer justified.
- (9) A decision regarding the performance of the activities specified in Article 33 of Council regulation No. 1346/2000 shall be sent by the court to the representative of the debtor, administrator and the Agency.
- (10) In deciding the performance of the activities specified in Article 37 of Council regulation No. 1346/2000, the court shall determine whether the referred to activities are in the interests of the insolvency proceedings creditors specified in Article 3, Paragraph 1 of the regulation.
- [20 June 2001; 31 October 2002; 25 May 2006]*

Section 351. Confirmation of Settlements

- (1) The court shall examine a settlement submitted by the administrator, at any stage in the insolvency proceedings up until commencement of the auction.
- (2) A true copy of the decision by the creditors meeting regarding the entering into of a settlement shall be submitted to the court together with the settlement signed by the debtor and the representative chosen at the creditors meeting.
- (3) If the decision on entering into a settlement has been taken by the committee of creditors, the administrator shall submit to the court:
 - 1) a true copy of the decision of the creditors meeting authorising the committee of creditors to decide the issue of settlement;
 - 2) the settlement signed by the debtor and the authorised representative of the committee of creditors; and
 - 3) a true copy of the decision of the committee of creditors on entering into the settlement.
- (4) The court shall confirm the settlement if it has been entered into in accordance with the procedures prescribed by law and the conditions thereof are not contrary to law.
- (5) If a court has commenced against a debtor the insolvency proceedings specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000, the court shall approve the settlement if firstly it has been approved in writing by the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation.
- (6) If a court has commenced against a debtor the insolvency proceedings specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000 and the settlement has not been approved by the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation, the court shall, prior to the approval of the settlement, hear the referred to insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation and shall approve the settlement if it determines that the ending of the insolvency proceedings specified in Article 3, Paragraph 2 of the regulation with a settlement shall not impact upon the financial interests of the insolvency proceedings creditors specified in Article 3, Paragraph 1 of the regulation.

[25 May 2006]

Section 352. Setting aside of Settlements

- (1) An application to set aside a settlement may be submitted by the administrator, the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of Council regulation No. 1346/2000, a creditor, a group of creditors or the creditors meeting.
- (2) The court shall set aside a settlement if it determines that:
 - 1) provisions of law have been violated in entering into the settlement;
 - 2) the entering into of the settlement has been attained through the use of fraud or duress, or was affected by mistake; or
 - 3) the debtor fails to fulfil the obligations provided for in the settlement.

[25 May 2006]

Section 353. Decision regarding a Restoration Plan [20 June 2001]

Section 354. Decision regarding Discontinuance of Restoration [20 June 2001]

Section 354.¹ Approval of Finalisation of Restoration

(1) A court shall approve a decision by the meeting of creditors regarding the finalisation of restoration and at the same time shall take a decision regarding the termination of insolvency proceedings.

(2) If a court has commenced against a debtor the insolvency proceedings specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000, the court shall approve the decision of the meeting of creditors regarding the finalisation of restoration if firstly it has been approved in writing by the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation.

(3) If a court has commenced against a debtor the insolvency proceedings specified in Article 3, Paragraph 2 of Council regulation No. 1346/2000 and the decision of the meeting of creditors regarding the finalisation of restoration has not been approved by the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation, the court shall, prior to the approval of the decision of the meeting of creditors regarding the finalisation of restoration, hear the referred to insolvency proceedings liquidator specified in Article 3, Paragraph 1 of the regulation and shall approve the referred to decision of the meeting of creditors if it determines that the ending of the insolvency proceedings specified in Article 3, Paragraph 2 of the regulation with a restoration shall not impact upon the financial interests of the insolvency proceedings creditors specified in Article 3, Paragraph 1 of the regulation.

[25 May 2006]

Section 355. Decision to Initiate Bankruptcy Procedures [20 June 2001]

Section 356. Decision regarding Administration Costs and Procedures for Settling Debts [20 June 2001]

Section 357. Decision regarding Termination of Bankruptcy Procedures

(1) The court shall take a decision regarding the termination of bankruptcy procedures, pursuant to a substantiated application by the administrator.

(2) Appended to the administrator's application regarding the termination of bankruptcy procedures shall be the following documents:

1) an account of administrator's actions;

2) a true copy of the relevant decision of the creditors meeting or committee of creditors or evidence that the convening of a final creditors meeting was unproductive;

3) liquidation balance of the debtor; and

4) a certification regarding the payment of the remaining monetary funds to the insolvency proceedings liquidator specified in Article 3, Paragraph 1 of Council regulation No. 1346/2000 if the court has commenced against a debtor the insolvency proceedings specified in Article 3, Paragraph 2 of the regulation.

(3) The court shall take a decision regarding the termination of bankruptcy procedures and termination of the insolvency proceedings.

(4) *[31 October 2002]*

[31 October 2002; 25 May 2006]

Section 358. Complaints regarding Decisions of Creditors Meetings

(1) The administrator may submit a complaint regarding any decision of a creditors meeting.

(2) An interested creditor or group of creditors may submit a complaint, regarding a decision of a creditors meeting approving or rejecting a claim by a creditor, within two weeks of the day of the creditors meeting or the day when a creditor who did not attend the creditors meeting is notified of the decision of the meeting.

(3) The court shall set aside the decision of a creditors meeting regarding approval or rejection of the claim of a creditor if the decision has been taken without a lawful basis.

(4) A creditor or group of creditors may appeal the decision of a creditors meeting (creditors committee) regarding the costs of administration and the procedures for the covering of debts to a court within a period of two weeks after the taking of the decision.

(5) If a decision of the creditors meeting has been attained through the use of fraud or duress, or has been influenced by error, an interested creditor or group of creditors may petition a court to set aside a decision regarding the application of restoration, the approval of a restoration plan, amendments to a restoration plan, extension of the time period for restoration or the commencement of bankruptcy procedures.

[20 June 2001]

Section 359. Appeal of a Decision of the Committee of Creditors

(1) The court shall adjudicate a complaint by the administrator regarding a decision of the committee of creditors if the complaint has already been examined at a creditors meeting.

(2) If the court determines that the decision appealed from does not conform to law it shall allow the complaint and direct the committee of creditors to rectify the violation.

(3) If the court determines that the decision appealed from is lawful, it shall dismiss the appeal.

Section 360. Complaints regarding Decisions of the Agency

(1) A court shall adjudicate a complaint by a creditors meeting, creditor committee, creditors, representatives of the debtor, administrator or third persons the rights or lawful interests of which have been infringed regarding a decision by the Agency regarding the actions of an administrator during the insolvency proceedings and the imposition of lawful duties.

(2) If the court finds that the appealed decision does not conform to the law, it shall satisfy the complaint and decide regarding:

1) the revocation in full or partially of the decision by the Agency;

2) impose a duty upon the Agency to accept or to examine the complaint regarding the actions of an administrator; or

3) impose a duty upon the administrator to rectify the violation allowed to take place.

(3) If the court determines that the decision appealed from is lawful, it shall dismiss the complaint.

(4) In adjudicating a complaint regarding a decision by the Agency, the court may require an account of the actions of the administrator.

[25 May 2006]

Section 361. Appointment of Several Administrators [20 June 2001]

Section 362. Decision regarding Resignation or Dismissal of an Administrator

(1) A court shall accept the resignation of an administrator if the administrator submits a substantiated submission to which is appended an account of his or her actions.

(2) A court shall decide on the dismissal of an administrator on the basis of a decision of a creditors meeting or an application of the Agency if:

- 1) the administrator does not conform to the provisions of law or the restrictions set out in law are applicable to him or her;
 - 2) the administrator is not competent in performing of his or her duties;
 - 3) the creditors meeting has expressed a lack of confidence in the administrator;
 - 4) the administrator violates the law;
 - 5) the administrator is using his or her authority in bad faith; or
 - 6) by a decision of the Agency the certificate of the administrator has been cancelled.
- (3) The court shall decide on the dismissal of an administrator on its own initiative if the administrator:
- 1) violates the law; or
 - 2) does not fulfil court adjudications.

[31 October 2002; 25 May 2006]

Section 363. Decision regarding Termination of Insolvency Proceedings

- (1) An application to terminate insolvency proceedings may be submitted by the administrator, but in the cases provided for in Paragraph three, Clauses 1 and 2 of this Section – also by the debtor.
- (2) Appended to the application shall be evidence regarding the renewal of the solvency of the debtor. Also appended to the administrator's application shall be a true copy of the decision of the relevant creditors meeting or evidence showing that the call for the final creditors meeting was unproductive.
- (3) The court shall take a decision regarding the termination of the insolvency proceeding if it is determined that:
 - 1) the debtor has fulfilled all of his or her obligations;
 - 2) the debtor has settled all of his or her obligations the performance of which has come due, and following the performance of these obligations the debtor's assets exceed the remaining debt amount; or
 - 3) no creditor has applied by the end of the published term for creditors to apply regarding their claims.
- (4) *[31 October 2002]*
[31 October 2002]

Chapter 47

Matters regarding Credit Institution Insolvency and Liquidation

Section 364. Jurisdiction regarding Matters

Matters regarding insolvency or liquidation of credit institutions shall be adjudicated by the court in accordance with the location (legal address) of the credit institution.

Section 365. Submitters of Insolvency Petitions

An insolvency petition may be submitted to the court by:

- 1) a credit institution or the liquidator of a credit institution;
- 2) a creditor or group of creditors;
- 3) an administrator for another insolvency case; or
- 4) the Finance and Capital Market Commission.

[20 June 2001]

Section 366. Submitters of Liquidation Applications

Liquidation applications shall be submitted to the court by the Finance and Capital Market Commission.

[20 June 2001]

Section 367. Procedures regarding Submitting of Insolvency Petitions

(1) An insolvency petition may, after the matter has been examined by the Finance and Capital Market Commission, be submitted to the court by a credit institution, the liquidator of a credit institution, a creditor or group of creditors, or the administrator of another insolvency matter.

(2) Insolvency petitions shall be submitted to the court by the Finance and Capital Market Commission, and thereto shall be appended the Finance and Capital Market Commission's decision regarding submission of the petition to the court and other documents that could be significant in the matter. In such case the person who shall be deemed the applicant is the person in whose name the insolvency petition is prepared and who submits it to the Finance and Capital Market Commission. The insolvency petition must conform to the requirements of Sections 368 and 369 of this Law.

(3) If the Finance and Capital Market Commission dismisses an insolvency petition, the persons mentioned in Paragraph one of this Section may submit it directly to the court. In this case, appended to the insolvency petition shall be the decision of the Finance and Capital Market Commission regarding refusal to submit the insolvency petition to the court.

[20 June 2001]

Section 368. Insolvency Petitions Submitted by a Creditor, a Group of Creditors or the Administrator of Another Insolvency Matter

(1) Set out in an insolvency petition submitted by a creditor, a group of creditors or the administrator of another insolvency matter, shall be the following:

- 1) the name of the court which has jurisdiction over the matter;
- 2) the given name, surname, personal identity number and place of residence of the applicant, but for legal persons their name, registration number and location (legal address), as well as information regarding their representative (given name, surname, personal identity number, position and address), if the application is submitted by a representative;
- 3) the name and location (legal address) of the credit institution;
- 4) the actual state of insolvency and evidence which confirms this state; and
- 5) the documents appended to the insolvency petition.

(2) Appended to the insolvency petition shall be documents, which confirm the actual insolvency of the credit institution, as well as the decision of the Finance and Capital Market Commission regarding refusal to submit the insolvency petition to the court.

[20 June 2001]

Section 369. Insolvency Petitions by Credit Institutions

(1) Set out in an insolvency petition submitted by a credit institution shall be:

- 1) the name of the court which has jurisdiction over the matter;
- 2) the name and registration number of the credit institution, the number and dates of issue and re-registration of the licence issued to operate the credit institution, location (legal address) and the particulars of all accounts open in the credit institution;

3) the actual state of insolvency or the probability of it happening, and evidence confirming such state; and

4) the documents appended to the insolvency petition.

(2) Appended to the insolvency petition shall be:

1) a list (given name, surname, personal identity number and address) of chairpersons and members of the advisory board, and the executive and audit bodies of the credit institution and of the representatives of the credit institution;

2) the most recent balance of the credit institution, prepared in conformity with the instructions of the Finance and Capital Market Commission regarding the preparation of annual accounts;

3) documents which confirm the actual state of insolvency of the credit institution or the probability of it happening;

4) a list of property belonging to third persons that is in the possession of or held by the credit institution, except deposits and interest from them; and

5) the decision of the Finance and Capital Market Commission regarding refusal to submit the insolvency petition to the court.

[20 June 2001]

Section 370. Petition by the Finance and Capital Market Commission regarding Insolvency of a Credit Institution

(1) Set out in an insolvency petition submitted by the Finance and Capital Market Commission shall be:

1) the name of the court which has jurisdiction over the case;

2) the address of the Finance and Capital Market Commission and information (given name, surname, personal identity number and position) in regard to its representative who is submitting the petition;

3) the name and location (legal address) of the credit institution;

4) the actual state of insolvency or the probability of it happening, and evidence that confirms these conditions; and

5) the documents appended to the insolvency petition.

(2) Documents that confirm the actual state of insolvency of the credit institution or the probability of it happening shall be appended to the insolvency petition.

[20 June 2001]

Section 371. Contents of Credit Institution Liquidation Applications

(1) Set out in a credit institution liquidation application shall be:

1) the name of the court which has jurisdiction over the matter;

2) The address of the Finance and Capital Market Commission and information (given name, surname, personal identity number and position) regarding its representative who is submitting the application.

3) the name and location (legal address) of the credit institution;

4) the representatives of the credit institution and persons whose participation in the liquidation of the credit institution is obligatory;

5) the conditions, as a result of which the operating licence issued to the credit institution has been revoked and evidence which confirms these conditions; and

6) the documents appended to the application.

(2) Appended to the liquidation application shall be the decision regarding revocation of the operating licence issued to the credit institution, and documents that confirm the conditions as a result of which the operating licence issued to the credit institution has been revoked.

[20 June 2001]

Section 372. Submission and Registration of Credit Institution Insolvency Petitions and Liquidation Applications

(1) An insolvency petition or liquidation application in regard to a credit institution may be submitted to the court by a representative of the Finance and Capital Market Commission, but in cases provided for in Section 367, Paragraph three of this Law – by the applicant or his or her representative.

(2) The identity of the applicant shall be verified upon receipt of an application. If such application can not be verified or if the applicant does not have the appropriate authorisation, the application shall not be accepted.

(3) Insolvency petitions and liquidation applications in regard to credit institutions shall be registered in separate registers, in which the applicant and the recipient shall sign.

[20 June 2001]

Section 373. Initiation of Insolvency Matters and Liquidation Matters of Credit Institutions

(1) A judge shall take a decision regarding the initiation of an insolvency matter or a liquidation matter or refusal to accept an application not later than the day following receipt of the application in court, but if an application is left not proceeded with, then not later than the day following the rectification of deficiencies indicated in a judge's decision or following the expiry of the time period for fulfilling the deficiencies.

(2) Upon initiating a matter, the court shall impose attachment upon the property of the credit institution, except in cases where the insolvency petition has been submitted in accordance with the procedures provided for in Section 367, Paragraph three of this Law.

Section 374. Activities of a Judge in Preparing Credit Institution Insolvency Matters for Adjudication

(1) Upon an insolvency matter being initiated in regard to a credit institution, a credit institution administrator recommended by the Finance and Capital Market Commission shall be appointed by the judge.

(2) Persons subject to the restrictions set out in the Credit Institution Law may not be appointed as administrators.

(3) Upon a person being appointed an administrator, he or she shall be assigned the following functions:

1) to prepare a list of those persons whose participation in the insolvency matter is mandatory;

2) to prepare an account of the assets (property) of the credit institution at its actual (market) value;

3) to ascertain any property of third persons as is in the possession of the credit institution or it is holding, and to prepare a list of such property;

4) to prepare a list of creditors based on the existing accounting data of the credit institution, setting out information regarding the creditors, the amount of debt and obligations, and performance time periods; and

- 5) to submit the referred to information to the court up to the adjudication of the matter.
- (4) Appended to the file shall be a declaration signed by the administrator, which shall confirm his or her consent to occupy the position and assume the liability set out in law.
- (5) The judge shall certify the identification document of the administrator.
- [20 June 2001]*

Section 375. Adjudging Insolvency and Liquidation Matters regarding Credit Institutions

- (1) The court shall adjudge insolvency and liquidation matters regarding credit institutions within 15 days of the time the matter is initiated.
- (2) The applicant, a representative of the credit institution and a representative of the Finance and Capital Market Commission, and in regard to insolvency matters also the administrator, shall be invited to the court sitting.
- (3) In insolvency or liquidation matters in regard to credit institutions, withdrawal or varying of applications shall not be permitted .
- (4) In adjudicating insolvency matters of credit institutions, the court shall verify the existence of any condition set out in the Credit Institution Law, which condition indicates insolvency of the credit institution, and verify whether the preliminary extrajudicial examination procedures of applications, provided for in Section 367 of this Law, have been complied with.
- (5) In adjudicating a credit institution liquidation matter, the court shall not assess the solvency of the credit institution.
- [20 June 2001]*

Section 376. Court Judgments in Credit Institution Insolvency Matters

- (1) If the court finds any condition that indicates insolvency of a credit institution, the court shall pursuant to its judgment declare the credit institution insolvent and shall determine the date when the insolvency comes into effect – either the date of submission of the insolvency petition or the proven actual date when the insolvency came into effect. If a liquidator submitted the insolvency petition, the court, while declaring the credit institution insolvent, shall at the same time, based on the liquidator's application, take a decision regarding initiation of bankruptcy procedures. The judgment shall be final and not subject to appeal.
- (2) In rendering a judgment regarding insolvency of a credit institution, the court shall confirm the appointed administrator.
- (3) The court shall, on the basis of an application by the Finance and Capital Market Commission and the list submitted by the administrator, determine those representatives of the credit institution and persons whose participation in the insolvency proceeding is mandatory.
- (4) The judgment shall constitute the basis for a stay of court proceedings in civil matters initiated against a credit institution, and to terminate execution of judgment in matters regarding the recovery of amounts adjudged against the credit institution, but not yet recovered.
- (5) If the court does not find any circumstances indicating that the credit institution is insolvent, the court shall dismiss the petition, and at the same time shall terminate the insolvency proceedings and decide the issue of whether it should be found that the petition is knowingly false, in accordance with the Credit Institution Law.
- (6) Upon finding that a petition is intentionally false, the court shall recover from the applicant the court costs and remuneration for the administrator and the administrator's assistant.
- [20 June 2001]*

Section 377. Court Judgments in Credit Institution Liquidation Matters

- (1) If the court determines that the Finance and Capital Market Commission has, in accordance with the Credit Institution Law, revoked the operator's licence issued to the credit institution, the court shall declare the credit institution subject to liquidation. The judgment shall be final and may not be appealed by way of appellate procedures.
- (2) In rendering a judgment regarding liquidation of a credit institution, the court shall appoint a liquidator for the credit institution. The court shall appoint as liquidator for the credit institution a person recommended by the Finance and Capital Market Commission.
- (3) Persons subject to the restrictions set out in the Credit Institution Law may not be appointed as liquidators.
- (4) The court shall, on the basis of an application by the Finance and Capital Market Commission, determine those representatives of the credit institution and persons whose participation in the liquidation of the credit institution is mandatory.
- (5) The judgment constitutes the basis for stay of court proceedings in civil matters initiated against the credit institution, and termination of execution proceedings with respect to judgments in matters regarding recovery of amounts adjudged against the credit institution, but not recovered.

[20 June 2001]

Section 378. Court Activities following Declaration of Insolvency or Liquidation of a Credit Institution

- (1) Following the pronouncement of a judgment, the court shall issue to the administrator or liquidator three true copies of the judgment certified in accordance with prescribed procedure with an endorsement regarding the coming into effect of the judgment.
- (2) The judge shall warn the representatives of the credit institution and persons specified in the judgment, whose participation in the credit institution insolvency proceedings or the liquidation of the credit institution is mandatory, for which such representatives and persons shall sign, that:
 - 1) it is their duty to attend all court sittings, that their failure to attend is not an impediment to the adjudicating of the matter at the court sitting and that nevertheless, the court may declare their attendance mandatory and require forced conveyance;
 - 2) it is their duty to provide the necessary information to the court and the administrator or liquidator;
 - 3) in case of change of place of residence they must, within a period of three days, notify the court and the administrator or liquidator regarding their new address; and
 - 4) in case of failure to perform their duties, they may be held liable as prescribed by law.
- (2¹) After the pronouncement of the judgment, the court shall inform the Financial and Capital Market Commission of this, ensuring that the commission receives the relevant information on the day of the pronouncement of the judgment. The procedures for informing the Financial and Capital Market Commission shall be determined by the Minister for Justice.
- (3) Pursuant to the petition of the administrator or liquidator, the judge shall take a decision regarding the release of property from attachment and its transfer to the administrator or liquidator.

[12 February 2004]

Section 379. Issues to be Decided by the Court after Declaring the Insolvency of a Credit Institution

- (1) After declaring a credit institution insolvent on the basis of the respective application, the court shall decide in regard to:

- 1) revocation of restoration;
 - 2) initiation and conclusion of bankruptcy procedures;
 - 3) costs of insolvency proceedings;
 - 4) procedures and time periods for settling debts;
 - 5) termination of insolvency proceedings;
 - 6) appointment of several administrators; and
 - 7) accepting the resignation of or discharging the administrator and appointing another administrator.
- (2) The court shall also examine complaints about the actions of the administrator and decide other issues relevant to the insolvency proceedings.
- (3) The court may, in connection with the examination of the issues noted in this Section, require the administrator to submit a report of his or her actions or other information.
- (4) The court shall adjudge applications and complaints within 15 days from the day they are received. The following shall be invited to the court sitting: the submitter of the application or complaint, the administrator, the credit institution representatives selected by the court and persons whose participation in the insolvency process is mandatory. The failure of the invited persons to attend is not an impediment to adjudication of the issue in court. Nevertheless, the court may determine that representatives of the credit institution or persons whose participation in the insolvency proceeding is mandatory must attend a court sitting and require that they be brought by forced conveyance.
- (5) The court shall take decisions regarding the adjudicating of applications and complaints, which decisions may not be appealed.

Section 380. Issues to be Decided by the Court after Declaration of the Liquidation of a Credit Institution

- (1) After declaring the liquidation of a credit institution based on the respective application, the court shall decide regarding:
- 1) appointing of several administrators;
 - 2) accepting the resignation of the liquidator or dismissing him or her and appointing another liquidator; and
 - 3) concluding the liquidation and approving the report of the liquidator.
- (2) The court shall also adjudicate complaints about the actions of the liquidator and decide other issues connected with the liquidation.
- (3) The court may, in connection with the adjudicating of the issues referred to in this Section, require the liquidator to submit a report of his or her actions or other information.
- (4) The court shall adjudge applications and complaints within 15 days of the date of their receipt. The following shall be invited to the court sitting: the submitter of the application or complaint, the liquidator, the credit institution representatives determined by the court and persons whose participation in the liquidation of the credit institution is mandatory. The failure of the invited persons to attend is not an impediment to the adjudicating of the issue in a court sitting. Nevertheless, the court may determine that the representatives of the credit institution or persons whose participation in the liquidation is mandatory must attend the court sitting and require them to be brought by forced conveyance.
- (5) The court shall take decisions regarding the adjudicating of applications and complaints, which decisions may not be appealed.

Section 381. Revocation of Restoration

(1) The court shall, pursuant to the application of an administrator, decide in regard to revocation of restoration.

(2) In the application of the administrator shall be set out the conditions under which the decision on restoration of the credit institution was taken. Appended to the application shall be the restoration plan and the opinion of the Finance and Capital Market Commission regarding revocation of the restoration.

(3) The court shall revoke the decision regarding restoration of a credit institution only if the court determines that the taking of such a decision has been achieved by fraud or duress, or as a result of error.

[20 June 2001]

Section 382. Decision to Initiate Bankruptcy Procedures

The court shall take a decision regarding initiation of bankruptcy procedures pursuant to the application of an administrator. Appended to the application shall be the relevant decision of the administrator, as confirmed by the Finance and Capital Market Commission.

[20 June 2001]

Section 383. Disputing the Procedures for Covering Expenditures and Debts of Insolvency Proceedings and Liquidations

(1) Pursuant to the application of a creditor or group of creditors the court shall decide as to whether the administrator's or liquidator's decision by which the procedures for covering the expenditures of the insolvency or liquidation proceeding and for settling debts is specified, conforms to law.

(2) If the court determines that the procedures specified by the administrator to cover the expenditures and debts of the insolvency proceeding or the procedures specified by the liquidator to cover the expenditures and debts of the liquidation do not conform to law, the court shall take a decision in which it shall determine the procedures for covering the expenditures and debts of the insolvency proceeding or liquidation, concurrently, if necessary, deciding the issue regarding covering unfounded expenditures of the insolvency proceeding or liquidation from the security of the administrator or liquidator.

Section 384. Decision to Conclude Bankruptcy Procedures

(1) The court shall take a decision regarding concluding the bankruptcy procedures pursuant to the application of the administrator, to which application shall be attached documents certifying monetary disbursements.

(2) At the same time the court shall take a decision regarding termination of insolvency proceedings.

(3) The court, after the decision has been taken, shall obtain from the administrator his or her identification document and seal, and shall destroy them.

Section 385. Decision regarding Concluding of a Liquidation

(1) The court shall decide as to the concluding of a liquidation pursuant to the application of the liquidator.

- (2) The court shall take a decision regarding the conclusion of the liquidation, and at the same time confirm the liquidator's report on the whole liquidation period.
- (3) The court, after the decision is taken, shall receive from the liquidator his or her identification document and seal, and shall destroy them.

Section 386. Complaints Regarding the Actions of an Administrator or Liquidator

- (1) In adjudicating a complaint regarding the actions of an administrator or liquidator, the court may require a report on the actions of an administrator or liquidator and the opinion of the Finance and Capital Market Commission regarding the actions of the administrator or liquidator, and may decide in regard to the discharge of the administrator or liquidator.
- (2) If the court determines that the action appealed from does not conform to law, it shall allow the complaint and instruct the administrator or liquidator to rectify the breach allowed to occur.
- (3) If the court determines that the action appealed from is lawful, it shall dismiss the complaint.

[20 June 2001]

Section 387. Decision regarding Accepting the Resignation of or Discharging an Administrator or Liquidator

- (1) The court shall accept the resignation of an administrator or liquidator if he or she submits a reasoned submission, to which is attached a report of his or her actions.
- (2) The court may discharge an administrator or liquidator, pursuant to the application of the Finance and Capital Market Commission. To the submission shall be attached the decision of the Finance and Capital Market Commission regarding expression of no-confidence in the administrator or liquidator in connection with any of the following conditions:

1) the administrator or liquidator does not meet the requirements of Section 131, Paragraph one of the Credit Institution Law, or a circumstance referred to in Section 132 has become disclosed;

2) the administrator or liquidator is incompetent; or

3) the administrator or liquidator are using his or her authority in bad faith.

- (3) The court may, pursuant to the application of a creditor or group of creditors or on its own initiative, adjudicate the issue of discharging an administrator or liquidator, if there is evidence at the disposal of the court that the administrator or liquidator in the course of performing his or her duties is failing to comply with the provisions of the Credit Institution Law and other regulatory enactments or court adjudications, the administrator or liquidator does not meet the requirements of Section 131, Paragraph one of the Credit Institution Law or a circumstance mentioned in Section 132 has become disclosed, or the administrator or liquidator is incompetent or is using his or her authority in bad faith.

[20 June 2001]

Section 388. Appointment of a New Administrator or Liquidator in the event of Resignation or Discharge of the Administrator or Liquidator

In the event of the resignation or discharge of an administrator or liquidator, the court, pursuant to the recommendation of the Finance and Capital Market Commission, shall without delay appoint another administrator or liquidator and determine the time period for submitting a document as confirms security.

[20 June 2001]

Section 389. Appointment of Several Administrators or Liquidators

(1) Taking into account the amount of assets of the credit institution, the court may, pursuant to the petition of the Finance and Capital Market Commission, appoint several administrators or liquidators, specifying their functions and mutual reporting relationships.

(2) The restrictions set out in law shall apply to all candidates for the position of administrator or liquidator.

[20 June 2001]

Chapter 48

Declaring a Strike or an Application to Strike as Illegal

Section 390. Submitting an Application

(1) An employer may submit an application regarding the declaring of a strike or an application to strike as illegal in accordance with the grounds referred to and procedure prescribed in the Law On Strikes.

(2) The application to declare a strike or an application to strike as illegal shall be submitted to the court according to the location where the strike is to take place.

Section 391. Contents of Applications

(1) There shall be set out in an application the applicants for the strike, the claims of applicants for the strike or the strikers, the leader, membership and location of the strike committee, and the grounds referred to in the Law On Strikes in accordance with which the strike or the strike application may be declared illegal.

(2) Appended to the application shall be the minutes of the discussions of the employer and workers or workers' trade organisation.

Section 392. Adjudicating Applications

(1) The court shall adjudicate an application within 10 days of the day when it is received. The application shall be adjudicated in a court sitting, regarding which prior notice shall be given to the employer, the State Labour Inspection and the strike committee.

(2) The participation of the submitter of the application at the court sitting is mandatory. His or her failure to attend shall be cause for the court to terminate the matter.

Section 393. Mandatory Participation of a Public Prosecutor

Matters regarding the declaring of a strike or an application to strike as illegal shall be adjudicated by the court with mandatory participation by a public prosecutor.

Section 394. Court Judgment regarding an Application

(1) Having adjudicated an application, the court shall render a judgment which:

1) finds the employer's application to be unfounded and dismisses it; or

2) finds the employer's application to be well-founded and the strike or the strike application to be illegal.

(2) The court judgment shall be final and shall not be subject to appeal by way of appellate procedures.

Chapter 48.¹

Declaring a Lock-out or an Application to Lock-out as Illegal

[31 October 2002]

Section 394.¹ Submitting an Application

(1) Representatives of employees may submit an application regarding the declaring of a lock-out or an application to lock-out as illegal in accordance with the grounds referred to and procedures prescribed by the Law on Labour Disputes.

(2) The application to declare a lock-out or an application to lock-out as illegal shall be submitted to the court according to the location where the lock-out is to take place.

[31 October 2002]

Section 394.² Contents of Applications

There shall be set out in an application the applicant for the lock-out and the grounds referred to in the Law on Labour Disputes in accordance with which the lock-out or the application to lock-out may be declared illegal.

[31 October 2002]

Section 394.³ Adjudicating Applications

(1) The court shall adjudicate an application within 10 days of the day when it is received. The application shall be adjudicated in a court sitting, regarding which prior notice shall be given to the representatives of employees, the State Labour Inspection and the applicants for the lock-out.

(2) The participation of the submitter of the application at the court sitting is mandatory. If the submitter of the application fails to attend the court sitting the court shall have a cause to terminate the matter.

[31 October 2002]

Section 394.⁴ Mandatory Participation of a Public Prosecutor

Matters regarding the declaring of a lock-out or an application to lock-out as illegal shall be adjudicated by the court with mandatory participation by a public prosecutor.

[31 October 2002]

Section 394.⁵ Court Judgment regarding an Application

(1) Having adjudicated an application, the court shall render a judgment by which the application by the representatives of employees shall be found:

1) to be unfounded and dismiss it; or

2) to be well-founded and the lock-out or the lock-out application to be illegal.

(2) The court judgment shall be final and shall not be subject to appeal by way of appellate procedures.

[31 October 2002]

Division Seven
Performance of Obligations through the Court

Chapter 49
Voluntary Sale of Immovable Property at Auction through the Court

Section 395. Jurisdiction

Applications for the voluntary sale of immovable property at auction through the court shall be submitted to the district (city) court according to the location of the immovable property.

Section 396. Application for Voluntary Sale at Auction of Immovable Property through the Court

(1) An application regarding voluntary sale of immovable property at auction through the court may be submitted by the owner or the pledgee who has the right to sell the pledge on the open market.

(2) Appended to the application for voluntary sale of immovable property at auction through the court shall be the conditions of sale and a certified print-out from the relevant part of the Land Register, which specifies the entries and endorsements in force, but if the application has been submitted by a pledgee – also a true copy of the pledge agreement, evidence regarding warning of the debtor, unless it does not follow from the document itself or the law that such warning is required.

(3) There shall be set out in the conditions of sale:

- 1) what the immovable property that is for sale consists of;
- 2) encumbrances and pledges of the immovable property;
- 3) the opening price for the auction;
- 4) the form of the procedure for payment of the highest bid;
- 5) rights in the immovable property reserved by the owner for himself or herself; and
- 6) other conditions of sale which the vendor considers necessary.

(4) If the immovable property which is to be sold is, being owned by more than one person, held in joint ownership, the concurrence of all the joint owners is required to order a voluntary sale of the immovable property at auction through the court pursuant to application by the owner.

[31 October 2002]

Section 397. Decision by a Judge

(1) An application regarding voluntary sale of immovable property at auction shall be adjudicated by a judge sitting alone within a period of seven days from the day of submission of the application, on the basis of the submitted application and documents attached thereto, and without notifying the applicant and the debtor thereof.

(2) The judge shall take a decision to permit the sale at auction having ascertained that:

- 1) the immovable property is owned by the submitter of the application or by a debtor of a pledgee and the pledgee has the right to sell the immovable property on the open market; and
- 2) there is no lawful impediment to the sale of this immovable property with the conditions set out in the application.

[31 October 2002]

Section 398. Auction Procedure

The sale at auction shall be performed by a bailiff in accordance with the procedures prescribed in this Law for the execution of court judgments and in compliance with the provisions of Sections 2075, 2083, 2084, 2087, 2089 and 2090 of the Civil Law, and the following conditions:

- 1) the immovable property shall be listed and evaluated only if requested by the person on the basis of whose application the sale is taking place;
- 2) the notice shall set out the conditions of sale, as well as the fact that the sale is voluntary;
- 3) the auction shall begin with a reading of the conditions of sale;
- 4) pursuant to a request by the submitter of the application, the auction may be considered as having taken place even in the event it is attended by only one buyer; and
- 5) if, in accordance with the conditions of sale, the acceptance of the highest bid depends on the person on the basis of whose application the sale is taking place and if he or she has not commented on this within the time period provided for by the conditions of sale or as set by the court, then it shall be considered that he or she has implicitly agreed to the highest price bid.

[31 October 2002]

Section 399. Documents to be Issued to a Purchaser

(1) After the purchaser of the immovable property has fulfilled all the conditions of sale, the regional court shall take a decision regarding confirmation of the statement of auction (Sections 611 and 613) and the registration of the sold immovable property in the name of the purchaser.

(2) The court decision together with the conditions of sale and the statement of auction shall be issued to the purchaser.

[19 June 2003]

Chapter 50

Undisputed Compulsory Execution of Obligations

Section 400. Obligations, on the Basis of which Undisputed Compulsory Execution is Permitted

(1) Undisputed compulsory execution of obligations is permitted:

1) pursuant to agreements regarding obligations which are secured with a public mortgage or a commercial pledge;

2) pursuant to notarially certified term agreements or term agreements of equivalent juridical effect regarding monetary payments or return of movable property;

3) pursuant to term lease or rental of property agreements, which are notarially certified or entered in a Land Register, and which provide that the lessee or tenant has a duty, due to expiry of the term, to vacate or deliver the leased or rented property (except an apartment) and to pay the lease or rental payments; or

4) pursuant to a protested promissory note.

(2) The obligations set out in Paragraph one of this Section shall not be subject to undisputed compulsory execution if:

1) such execution is directed against State-owned property; or

2) the obligation has been extinguished by prescription, the elapse of which is unequivocally manifest from the document itself.

Section 401. Persons Eligible to Submit an Application Regarding Undisputed Compulsory Execution

The following may submit an application regarding undisputed compulsory execution:

- 1) the person in whose name the document (agreement, promissory note) is issued;
- 2) the person to whom the document is transferred with an endorsement certified in accordance with bearer documents procedure, a separate Land Register document, a document certified in accordance with bearer procedures, or a notarised document;
- 3) the heir of the persons mentioned, if the heir's inheritance rights are evidenced with a court judgment or an inheritance certificate regarding a will coming into lawful effect or confirmation of the heir's inheritance rights, or pursuant to a court decision by means of which the heir has been provided with possession of the property bequeathed (Section 638 of the Civil Law) or a court decision or a certification by a notary by which it is recognised that he or she has accepted the inheritance (Section 697 of the Civil Law);
- 4) a guarantor who, on the basis of a court judgment or compulsory execution procedures, has made payment in place of a debtor, or the payment made by whom is confirmed by a receipt, or an endorsement on the document, which are certified in accordance with bearer procedures;
- 5) the acquirer of immovable property, pursuant to a lease or rental agreement of such property, if the rights of the acquirer are certified by a Land Register instrument, or by documents regarding change of ownership through inheritance, as set out in Paragraph three of this Section; or
- 6) pursuant to protested promissory notes – the holder of a promissory note in whose name it has been protested, and a guarantor, endorser or intermediary, who have paid a promissory note and bring a subrogation action.

[31 October 2002]

Section 402. Persons against whom Undisputed Compulsory Execution shall be Permitted

Undisputed compulsory execution shall be permitted:

- 1) against persons in whose name a document is issued (contracting parties), but pursuant to a protested promissory note – against all persons liable therefor;
- 2) against guarantors, if they have undertaken obligations as a principal debtor (Section 1702, Paragraph two of the Civil Law); and
- 3) against an heir of a person who has undertaken an obligation, if acceptance of the inheritance is confirmed by the evidence referred to in Section 401, Paragraph three of this Law.

Section 403. Jurisdiction

- (1) Applications for undisputed compulsory execution, regarding obligations concerning monetary payments or the return of movable property, shall be submitted to the district (city) court according to the location of the debtor's place of residence.
- (2) Applications for undisputed compulsory execution, pursuant to immovable property pledge documents or the obligation to vacate or return leased or rented immovable property, shall be submitted to the district (city) court according to the location of the debtor's residence.
- (3) Applications for undisputed compulsory execution based on a ship mortgage obligation shall be submitted to the district (city) court according to the place of registration of the ship mortgage obligation.

Section 404. Contents of Applications

- (1) In an application there shall be set out the obligations and the documents pursuant to which the creditor requests undisputed compulsory execution.
- (2) Applications in regard to undisputed compulsory execution regarding monetary payment shall set out the principal debt to be recovered, penalties and interest – as agreed to, as well as those set out in law – but pursuant to promissory notes, also the expenditures associated with protesting and the compensation set out in law.
- (3) To the application shall be appended:
 - 1) the document to be executed by way of undisputed compulsory procedure, and a true copy thereof, but where such execution is to be pursuant to a promissory note – also the protest document;
 - 2) a document regarding payment of the State fee; and
 - 3) evidence that the debtor has been given a warning, unless it does not follow from the document itself or law that such warning is required.

Section 405. Decision by a Judge

- (1) An application regarding undisputed compulsory execution shall be adjudicated by a judge sitting alone, within a period of seven days from the day of submission of the application, on the basis of the submitted application and documents attached thereto, and without notifying the applicant and the debtor thereof.
- (2) The judge, having examined the validity of the submitted application and having found that it is to be allowed, shall take a decision pursuant to which the obligation to be executed, and the extent to which it is to be executed, in accordance with undisputed compulsory procedure, are determined. A true copy of the decision shall be sent to the applicant and to the debtor within a period of three days.
- (3) The judge's decision shall come into effect without delay, and it shall have the effect of an execution document. The decision shall be executed in accordance with provisions regarding the enforcement of judgments. It shall be submitted for execution together with a true copy of the document subject to undisputed compulsory execution.
- (4) If the judge finds that the application is unfounded, he or she shall take a decision regarding the dismissal thereof. The judge shall send the applicant a true copy of the decision together with the submitted documents.

Section 406. Procedures for Disputing Undisputed Compulsory Execution

- (1) If a debtor is of the opinion that the claim of the creditor is, on the merits, unfounded he or she may, within a period of six months from the date when the true copy of the decision is sent, bring an action against the creditor to dispute the claim. The action shall be brought in court in accordance with the procedures prescribed in this Law.
- (2) In bringing action, the debtor may request a stay of the undisputed compulsory execution, but if the judgment creditor has already received satisfaction through such process – may petition to ensure the action.

Chapter 50.¹

Compulsory Execution of Obligations in Accordance with Warning Procedures

[31 October 2002]

Section 406.¹ Obligations, on the Basis of which Compulsory Execution in Accordance with Warning Procedures is Permitted

(1) Compulsory execution of obligations in accordance with warning procedures is permitted in payment obligations, which are justified by a document and for which the term for execution is due, as well as payment obligations regarding the payment of such compensation, which is in the entered into contract regarding supply of goods, purchase of goods or provision of services if such obligations are justified by a document and for which a time period for execution has not been specified.

(2) Compulsory execution of obligations in accordance with warning procedures is not permitted:

- 1) for payments related to unperformed correlative performance;
- 2) if the place of residence of the debtor is not known; or
- 3) if the place of residence or location of the debtor is not in the Republic of Latvia.

[31 October 2002; 7 September 2006]

Section 406.² Jurisdiction

(1) Compulsory execution of obligations in accordance with warning procedures shall be initiated pursuant to an application of a creditor.

(2) An application regarding compulsory execution of obligations in accordance with warning procedures shall be submitted to a district (city) court according to the debtor's place of residence or location (legal address).

[31 October 2002]

Section 406.³ Contents of Applications

(1) An application shall be formalised in conformity with a sample approved by the Minister for Justice.

(2) There shall be set out in the application:

- 1) the name of the court to which the application is submitted;
- 2) the given name, surname, personal identity number and place of residence of the applicant, as well as his or her representative where the application is submitted by the representative, and the debtor, but for a legal person – its name, registration number and location (legal address). The personal identity number or registration number of the defendant shall be included, if such is known;
- 3) payment obligation in relation to which the application is submitted;
- 4) the amount requested and calculation thereof, specifying the principal debt, penalties and interest – as agreed to, as well as those set out in law, and court costs;
- 5) certification by a creditor that the claim is not dependent on correlative performance or that correlative performance has been carried out;
- 6) a petition to the court to issue a warning to the debtor; and
- 7) a petition to decide on compulsory execution of payment obligation and recovery of court costs.

(3) The application shall have appended:

- 1) a true copy of the application for the debtor;

2) documents certifying the payment of State fees and costs related to the issuance of a warning; and

3) documents on which the creditor's claim is based.

[31 October 2002]

Section 406.⁴ Reasons for Non-Acceptance of Applications

(1) The judge shall refuse to accept an application if it does not meet the requirements of Sections 406.¹, 406.² and 406.³ of this Law.

(2) A judge shall take a reasoned decision regarding refusal to accept an application. The judge shall send to the applicant a true copy of the decision together with the documents.

(3) The decision regarding refusal to accept an application may not be appealed.

(4) Refusal by a judge to accept an application is not an impediment to the submitting of the same application to the court after deficiencies have been eliminated or to the bringing of an action in accordance with general procedures.

[31 October 2002]

Section 406.⁵ Contents of Warnings

(1) A warning shall be formalised in conformity with a model form approved by the Minister of Justice.

(2) There shall be set out in the warning:

1) the name of the court which issues the warning;

2) the applicant, the substance and amount of the claim;

3) the debtor;

4) the fact that the court has not verified the validity of the claim;

5) a proposal to the debtor to pay the amount specified in the application within 14 days from the day of issuance of the warning, notifying the court thereof, or to submit objections to the court; and

6) the fact that the obligation specified in the warning will be transferred for compulsory execution if within the specified 14 days objections or evidence on payment is not submitted.

(3) The warning shall be signed by the judge.

[31 October 2002]

Section 406.⁶ Issuance of a Warning to a Debtor

(1) The warning together with a true copy of the application and an answer form shall be issued to the debtor for which he or she shall sign. The document with a signature regarding receipt and a notation regarding the date of issuance of the warning shall be submitted to the court.

(2) If issuance of the warning to a debtor is not possible, the judge shall take a decision regarding leaving the application unadjudicated. A true copy of the decision together with the documents attached to the application shall be sent to the applicant.

(3) Leaving an application unadjudicated is not an impediment to repeated submission of the application regarding compulsory execution of obligations in accordance with warning procedures or bringing an action in accordance with general procedures. In such cases the paid State fees shall be repaid or they shall be transferred if the action is brought in accordance with the procedures for court proceedings by way of action.

[31 October 2002]

Section 406.⁷ Objections by Debtors

- (1) Debtor's objections submitted within the prescribed time period against the validity of the payment obligation or the payment of the debt shall be the basis for termination of court proceedings regarding compulsory execution of obligations in accordance with warning procedures.
- (2) If the debtor admits the application in part, the judge shall send the answer of the debtor to the applicant and set a time period within which he or she shall notify the court of the transfer of the obligation for compulsory execution in the part admitted.
- (3) If the applicant does not agree or has not provided an answer within the time period specified by the judge, the court proceedings shall be terminated.
- (4) If the applicant agrees to execution of obligations in the part admitted, the judge shall take a decision in conformity with the requirements of Section 406.⁹ of this Law.
- (5) Debtor's objections submitted after the time period specified, but until the decision in the matter is taken, shall be deemed to have been submitted within the time period.

[31 October 2002; 19 June 2003]

Section 406.⁸ Termination of Court Proceedings

- (1) The judge shall take a decision regarding termination of the court proceedings for compulsory execution of obligations in accordance with warning procedures. The decision regarding termination of the court proceedings may not be appealed.
- (2) A true copy of the decision together with debtor's objections shall be sent to the applicant.
- (3) The decision regarding termination of the court proceedings for compulsory execution of obligations in accordance with warning procedures in relation to the objections of the debtor, is not an impediment to bringing an action in accordance with the procedures for court proceedings by way of action. In such cases the paid State fees shall be repaid or they shall be transferred if the action is brought in accordance with the procedures for court proceedings by way of action.

[31 October 2002; 19 June 2003]

Section 406.⁹ Decision by a Judge regarding Compulsory Execution of Obligations

- (1) If the debtor has failed to submit objections within the time period specified in the warning, the judge shall within seven days from the date of expiry of the time period for objections take a decision regarding compulsory execution of the payment obligation specified in the application and recovery of court costs. A true copy of the decision shall be sent to the applicant and to the debtor within a period of three days.
- (2) The decision of the judge shall come into effect without delay, it shall have the effect of an execution document and it shall be executed in accordance with provisions regarding execution of court judgments.

[31 October 2002]

Section 406.¹⁰ Procedures for Disputing Compulsory Execution of Obligations

- (1) If a debtor is of the opinion that the claim of the applicant is, on the merits, unfounded he or she may, within a period of three months from the date when the true copy of the decision is sent, bring an action against the creditor to dispute the claim. The action shall be brought in court in accordance with the procedures prescribed by this Law.

(2) In bringing the action, the debtor may request a stay of the compulsory execution of obligations, but if the creditor has already received satisfaction through such process – may petition to ensure the action.

[31 October 2002]

Chapter 51

Submitting the Subject-matter of an Obligation for Safekeeping in the Court

Section 407. Grounds for Safekeeping the Subject-matter of an Obligation

If, in a cases as prescribed in Section 1837 of the Civil Law, a debtor is not able to perform an obligation, the debtor has the right to submit the subject-matter of the obligation for safekeeping in the district (city) court according to the location where the obligation is to be performed.

Section 408. Subject-matter of Obligations

(1) The following items may be submitted to the court for safekeeping:

- 1) cash;
- 2) securities;
- 3) documents; and
- 4) valuables.

(2) Other items may be submitted to the court for safekeeping only if their nature is such that the court can store or safeguard them.

Section 409. Contents of Applications

In submitting the subject-matter of an obligation to the court for safekeeping, there shall be set out in the application:

1) the given name, surname or title and place of residence or location (legal address) of the creditor or the successor in interest of the creditor, if the debtor knows the successor in interest, as well as the place of residence or location (legal address) of the persons mentioned, or a statement that it is unknown to the debtor;

2) a description of the obligation, for the performance of which money or other items are submitted;

3) the reason why it was not possible to perform the obligation;

4) the amount of money to be submitted or a detailed description of the items; and

5) a petition that the subject-matter of the obligation submitted for safe-keeping be issued to the creditor on request.

Section 410. Actions of a Judge following Receipt of an Application

(1) A judge, after an application is received, shall, without examining its verity, issue to the applicant (debtor) a document regarding receipt of the money or other items, and shall take a decision to invite the creditor to receive the subject-matter of the obligation accepted for safekeeping. The invitation shall be served as a summons, but if the place of residence or location (legal address) of the creditor or the creditor's successor in interest is unknown, by means of a notice in the newspaper *Latvijas Vēstnesis*.

- (2) In the summons shall be set out the obligation pursuant to which the subject-matter of such obligation has been submitted to the court for safekeeping, and the creditor shall be invited to receive the subject-matter of the obligation accepted for safekeeping.
- (3) Upon receipt of an application from the creditor regarding issue of the subject-matter of an obligation accepted for safekeeping, the judge shall set down the matter for it to be adjudicated at a court sitting.

Section 411. Rights of an Applicant to the Return of the Submitted Subject-matter

- (1) So long as the creditor has not submitted an application for issue of the subject-matter of an obligation accepted for safekeeping, the applicant (debtor) may have the subject-matter submitted returned to him or her.
- (2) Money that has been paid into the court in order to discharge obligations or claims which have been secured with an endorsement in the Land Register, if such endorsement has already been expunged, may be returned to the applicant (debtor) only with the consent of the creditor or on the basis of a court judgment that has come into lawful effect and which recognises the payment in as no longer in effect.
- (3) If the subject-matter of an obligation is returned to the applicant (debtor) in accordance with the procedures prescribed in this Section, the court shall terminate the court proceedings in the matter.

Section 412. Issue of the Subject-matter of an Obligation to the Creditor

- (1) A submission regarding the issue of the subject-matter of an obligation shall be adjudicated in a court sitting to which the applicant (debtor) and creditor shall be summoned. The failure of these persons to attend is not an impediment to adjudication of the application.
- (2) The court, having determined that the creditor agrees to receive the subject-matter of the obligation accepted for safekeeping, shall take a decision regarding its issue to the creditor, as well as regarding the recovery from the creditor of the court costs and expenditures for the safekeeping.
- (3) Prior to taking a decision regarding the issue of the subject-matter of the obligation to the creditor, the court shall require from the creditor the document (if such has been prepared) upon which is founded the obligation to be extinguished with the subject-matter of such obligation submitted for safekeeping.
- (4) If the obligation is extinguished completely upon the issue of the subject-matter of the obligation to the creditor, the court shall give the submitted document to the applicant (debtor). Otherwise, the court shall make an appropriate notation on the document and give the document to the creditor.
- (5) If the creditor refuses to receive the subject-matter of such obligation accepted for safekeeping and a dispute arises regarding rights, the court shall take a decision regarding termination of the court proceedings, return the subject-matter of the obligation accepted for safekeeping to the applicant, and explain to the participants in the matter their rights to decide the dispute through the procedures regarding actions.

Part C
Appeal of Court Judgments and Decisions

Division Eight
Appellate Proceedings

Chapter 52
Submission of Appellate Complaints

Section 413. Right to Submit an Appellate Complaint or an Appellate Protest

(1) Participants in a matter may submit an appellate complaint regarding a judgment (supplementary judgment) of a court of first instance, but a public prosecutor may submit an appellate protest in accordance with the procedures provided for in this Chapter, except for judgments, the appeal of which in accordance with appellate procedure is not provided for by law. A representative shall submit a complaint in accordance with the requirements of Section 86 of this Law.

(2) An appellate protest shall be submitted and adjudicated in accordance with the same procedures as an appellate complaint provided that it is not otherwise prescribed in this Division.

Section 414. Procedures for Submitting an Appellate Complaint

(1) A district (city) court judgment, which has not come into lawful effect, may be appealed, in accordance with appellate procedure, to the applicable regional court.

(2) A judgment of a regional court as a court of first instance, which has not come into lawful effect, may be appealed, in accordance with appellate procedure, to the Civil Matters Court Panel of the Supreme Court.

(3) An appellate complaint addressed to an appellate instance court shall be submitted to the court, which rendered the judgment.

(4) If within the time period required, an appellate complaint is directly submitted to an appellate instance court, it shall be deemed that the time period is complied with.

Section 415. Time Periods for Submitting Appellate Complaints

(1) An appellate complaint regarding a judgment of a court of first instance may be submitted within 20 days from the day of pronouncement of the judgment.

(2) If an abridged judgment has been pronounced, the time period for appeal shall be calculated from the date, which the court has announced for drawing up of a full judgment (Section 199).

(3) An appellate complaint submitted after the expiration of the time period shall not be accepted and shall be returned to the submitter.

[31 October 2002]

Section 416. Contents of an Appellate Complaint

(1) In an appellate complaint shall be set out:

1) the name of the court to which the complaint is addressed;

2) the given name, surname, personal identity number and place of residence of the submitter of the complaint, but for a legal person, its name, registration number and location (legal address);

- 3) the judgment regarding which the complaint has been submitted and the court which rendered the judgment;
 - 4) the extent to which the judgment is being appealed;
 - 5) how the error in judgment is manifested;
 - 6) whether the allowing of new evidence is being applied for, what evidence, regarding what circumstances and why this evidence had not been submitted to the court of first instance;
 - 7) the request of the submitter; and
 - 8) a list of documents accompanying the complaint.
- (2) An appellate complaint shall be signed by the submitter or their authorised representative. Appellate protests shall be signed by such officials of the Office of the Prosecutor as is specified by law.
- (3) An appellate complaint, which has been submitted by a person who is not authorised to appeal a court judgment, shall not be accepted and shall be returned to the submitter.
- [31 October 2002]*

Section 417. True Copies of an Appellate Complaint

- (1) An appellate complaint shall be accompanied by true copies thereof and true copies of the documents accompanying the complaint, in such number as corresponds to the number of participants in the matter.
- (2) This provision does not apply to documents, originals or true copies of which are already in the possession of the participants in the matter.

Section 418. Limits regarding Appellate Complaints

- (1) In an appellate complaint, the subject-matter or basis of an action may not be amended to include new claims as were not brought in the court of first instance.
- (2) The following shall not be regarded as new claims:
 - 1) making a claim more precise;
 - 2) correction of manifest errors in a claim;
 - 3) addition of interest and increments to a claim;
 - 4) a claim for compensation for the value of property related to alienation or loss of the property claimed or a change in what it consists of;
 - 5) amendment of component parts of the total amount of a claim within the limits of this amount;
 - 6) amendment of a claim, in which there is a request that rights be recognised, to a claim that infringed rights be restored, as a result of a change in circumstances in the course of the matter; and
 - 7) increase in the amount of a claim as a result of increase in market prices in the course of the matter.

Section 419. Joining in an Appellate Complaint

- (1) Co-participants and third persons, which participate in the procedure on the side of a submitter who has submitted an appellate complaint, may join in the submitted appellate complaint.
- (2) An appellate instance court shall be notified, in writing, of the joining in a complaint not later than 10 days prior to the adjudicating of a matter at appellate instance.
- (3) A State fee shall not be charged regarding a submission to join in an appellate complaint.

Section 420. Leaving an Appellate Complaint Not proceeded With

(1) A judge of a court of first instance shall take a decision to leave an appellate complaint not proceeded with and set a time period for the submitter to rectify deficiencies, if:

1) the appellate complaint submitted does not comply with the requirements of Section 416, Paragraph one or two of this Law;

2) the appellate complaint is not accompanied by all required true copies; or

3) the State fee has not been paid regarding the appellate complaint submitted.

(2) If the deficiencies are rectified within the time period set, the appellate complaint shall be deemed to have been submitted on the date when it was first submitted. Otherwise, the complaint shall be deemed not to have been submitted and shall be returned to the submitter.

Section 421. Appeal of a Judgment by a Judge

An ancillary complaint may be submitted regarding a decision of a judge to refuse to accept an appellate complaint.

Section 422. Action by a Court of First Instance after Receipt of an Appellate Complaint

(1) A judge of a court of first instance, after he or she has satisfied himself or herself that an appellate complaint complies with the requirements in Sections 416 and 417 of this Law, shall without delay notify the other participants in the matter of such complaint and send them a true copy of the complaint and documents accompanying it, indicating the time period for submission of a written explanation.

(2) After the time period for submission of an appellate complaint has expired, the judge shall without delay send the matter with the complaint and documents accompanying it to the appellate instance court.

Section 423. Written Explanation by a Participant in a Matter

(1) A participant in a matter may submit, in regard to the submitted appellate complaint, a written explanation, together with true copies thereof in the number corresponding to the number of participants in the matter, to an appellate instance court within 30 days from the day a true copy of the appellate complaint was sent to the participant.

(2) The court shall send true copies of the explanation to the other participants in the matter.

Section 424. Appellate Cross Complaint

(1) After receipt of a true copy of an appellate complaint, a party has the right to submit an appellate cross complaint.

(2) An appellate cross complaint shall comply with the requirements of Sections 413, 416, 417 and 418 of this Law.

(3) An appellate cross complaint shall be submitted to an appellate instance court within the time period provided for in Section 423 of this Law.

(4) After receipt of an appellate cross complaint, an appellate instance court shall without delay send true copies of the complaint to the other participants in the matter.

Chapter 53

Adjudicating Matters at Appellate Instance

Section 425. Initiation of Appellate Instance Court Proceedings

(1) Having satisfied himself or herself that the procedures regarding submission of appellate complaints have been observed, a judge, after receipt of an explanation or after expiration of the time period prescribed for its submission, shall take a decision regarding the initiation of appellate instance court proceedings and shall set down the matter for it to be adjudicated at an appellate instance court sitting.

(1¹) In matters regarding the reinstatement of an employee in work and matters regarding the annulment of an employer's notice of termination, the date of the court sitting shall be determined not later than 15 days after the receipt of explanations or the end of the time period for the submission thereof.

(2) Having determined that an appellate complaint has been sent to an appellate instance court in breach of procedures provided for by this Law regarding submission of appellate complaints, a judge shall take one of the following decisions:

1) regarding refusal to initiate appellate instance court proceedings, if there is failure to comply with a time period set for the submission of the appellate complaint, or the appellate complaint has been submitted by a person who is not authorised to appeal a court judgment; in such case, the complaint together with the matter shall be sent to the court of first instance which shall return the complaint to the submitter; or

2) regarding the sending of the matter to the court of first instance for the carrying out of the actions prescribed by law if, in the submission of the appellate complaint, the deficiencies set out in Section 416, Paragraph one of this Law have been allowed to occur or a State fee has not been paid.

(3) if an appellate instance court determines that the conditions set out in Paragraph two, Clause 1 of this Section exist, the court shall take a decision to leave the appellate complaint unadjudicated.

[31 October 2002; 7 April 2004]

Section 426. Limits regarding Adjudicating of a Matter at Appellate Instance

(1) An appellate instance court shall adjudicate a matter on the merits in connection with an appellate complaint and an appellate cross complaint to the extent as is petitioned for in such complaint.

(2) An appellate instance court shall adjudicate only those claims, which have been adjudicated by a court of first instance. Amendment of the subject-matter or the basis of an action shall not be permitted.

(3) An appellate instance court shall adjudicate a matter on the merits without sending it for re-adjudication to a court of first instance, except in the cases set out in Section 427 of this Law.

Section 427. Cases where a Judgment of a Court of First Instance shall be Set Aside and the Case shall be Sent to be Re-adjudicated in a Court of First Instance

(1) Irrespective of the grounds for the appellate complaint, an appellate instance court shall by its decision set aside a judgment of a court of first instance and send the case for it to be re-adjudicated in a court of first instance, if the appellate instance court determines that:

1) the court was unlawfully constituted when adjudicating the matter;

2) the court adjudicated the proceeding in breach of the norms of procedural law which prescribe a duty to notify participants in the matter of the time and place of the court sitting;

3) norms of procedural law regarding the language of the court proceedings have been breached;

4) the court judgment confers rights or imposes duties upon a person who has not been summoned to the matter as a participant in the matter; or

5) there are not minutes of the court sitting or a there is not a full judgment in the matter.

(2) An appellate instance court, finding an appellate complaint regarding a court judgment for a part in which court proceedings have been terminated in the matter or an action left unadjudicated as valid, shall set aside the judgment at first instance in this part and send the matter for it to be adjudicated at a court of first instance.

Section 428. Appellate Instance Court Trial Procedures

(1) Participants in a matter shall be summoned and other persons summonsed to a court in accordance with the provisions of Chapter 6 of this Law.

(2) A sitting of an appellate instance court shall take place in accordance with the provisions of Chapter 21 of this Law, in compliance with the specific requirements of this Chapter.

Section 429. Submitting Explanations in an Appellate Instance Court

(1) Explanations in an appellate instance court sitting shall first be submitted by the submitter of the appellate complaint, but if both parties have submitted a complaint, by the plaintiff.

(2) If a public prosecutor has submitted an appellate protest, their explanation shall be provided prior to the explanations by the other participants in the matter.

Section 430. Examination of Evidence in an Appellate Instance Court

(1) An appellate instance court itself shall decide which evidence is to be examined at a court sitting.

(2) In examining and assessing evidence, an appellate instance court shall observe the provisions of the Division Three of this Law.

(3) Facts that have been established by a court of first instance are not required to be examined by an appellate instance court if these have not been contested in the appellate complaint.

(4) If a participant in a matter submits to or requests in an appellate instance court that evidence be examined which the participant was able to submit at the adjudicating of the matter in the court of first instance and if the appellate instance court finds that by such action the adjudicating of the matter has knowingly been hindered, the appellate instance court may impose upon the participant a fine not exceeding one hundred lats.

Section 431. Termination of Appellate Court Proceedings

(1) The submitter of an appellate complaint (an appellate cross-complaint) has the right to withdraw it so long as the adjudicating of the proceeding on the merits has not been concluded.

(2) If an appellate complaint is withdrawn, the appellate instance court shall take a decision regarding termination of the appellate proceedings, except in cases where an appellate complaint (an appellate cross complaint) has been submitted by other participants in the matter or an appellate protest has been submitted.

(3) If the submitter of an appellate complaint, without justified cause, has twice failed to attend a sitting of the court and has not petitioned that the matter be adjudicated in his or her absence, the court may terminate the appellate proceedings.

(4) If appellate proceedings are terminated, the State fee shall not be refunded.

Chapter 54

Judgments and Decisions of Appellate Instance Courts

Section 432. Judgment of an Appellate Instance Court

- (1) An adjudication of an appellate instance court by which a matter is adjudged on the merits, shall be rendered by the court in the form of a judgment.
- (2) An appellate instance court shall render and draw up a judgment in accordance with the procedures prescribed in Sections 189-198 of this Law, and in compliance with the features indicated in this section.
- (3) In the introductory part of a judgment, in addition to the items referred to in Section 193, Paragraph three of this Law, a court shall set out the submitter of the appellate complaint and the court judgment regarding which the complaint is submitted.
- (4) In the descriptive part of a judgment, in addition to the items referred to in Section 193, Paragraph four of this Law, a court shall set out the substance of the judgment of the court of first instance and the substance of the appellate complaint (appellate cross complaint) and objections.
- (5) In the reasoned part of the judgment, in addition to the items referred to in Section 193, Paragraph five of this Law, a court shall set out the reasons for its opinion with respect to the judgment of the court of first instance and with respect to the appellate complaint (appellate cross complaint).

Section 433. Pronouncement of an Appellate Instance Court Judgment

- (1) An appellate instance court shall pronounce judgment in accordance with the procedures prescribed in Section 199 of this Law.
- (2) A true copy of the judgment shall be sent to participants in the matter in the cases and pursuant to the procedures provided for in Section 208 of this Law.<

Section 434. Coming into Lawful Effect of an Appellate Instance Court Judgment

An appellate instance court judgment shall come into lawful effect at the time it is pronounced.

Section 435. Correction of Clerical and of Mathematical Calculation Errors in a Judgment of an Appellate Instance Court

- (1) An appellate instance court is entitled, on its own initiative or pursuant to the application of a participant in the matter, to correct clerical or mathematical calculation errors in a judgment.
- (2) An issue concerning correction of errors shall be decided at a court sitting upon prior notice to the participants in the matter. The failure by such persons to attend is not an impediment to the adjudication of the issue concerning correction of errors.
- (3) An ancillary complaint regarding a court decision to correct errors in a judgment may be submitted by a participant in the matter.

Section 436. Supplementary Judgment of an Appellate Instance Court

(1) An appellate instance court may, on its own initiative or pursuant to the application of a participant in the matter, make a supplementary judgment if:

1) judgment has not been rendered in regard to a claim, which has been the subject-matter of adjudication by the appellate instance court;

2) the court has not determined the extent of the amount adjudged, the property to be delivered, or the actions to be performed; or

3) the judgment does not contain a decision regarding reimbursement of court costs.

(2) The rendering of a supplementary judgment may be initiated within 30 days from the day of pronouncement of the judgment.

(3) A supplementary judgment shall be rendered by a court after the matter is adjudicated at a court sitting, upon prior notice to the participants in the matter. The failure to attend by such persons is not an impediment to the rendering of a supplementary judgment or the dismissing of an application.

(4) A supplementary judgment shall come into effect at the time it is pronounced.

(5) An ancillary complaint may be submitted regarding a decision of the court by which the rendering of a supplementary judgment is refused.

Section 437. Explanation of the Judgment of an Appellate Instance Court

(1) Pursuant to an application by a participant in the matter an appeal court may, by its decision, explain a judgment without varying its substance.

(2) A judgment may be explained if it has not yet been executed and the time period for compulsory execution of the judgment has not expired.

(3) An issue regarding explanation of a judgment shall be adjudicated at a court sitting, upon prior notice to the participants in the matter.

The failure of such persons to attend is not an impediment to the adjudication of the matter.

(4) An ancillary complaint may be submitted regarding a court judgment with respect to an issue regarding explanation of a judgment.

Section 438. Postponement or Division into Time Periods of the Execution of an Appellate Instance Court Judgment, and Varying of the Forms and Procedures for its Execution

(1) Pursuant to an application of a participant in the matter and taking into account the financial state of the parties or other significant circumstances, an appellate instance court is entitled to postpone the execution of a judgment or divide it into time periods, and to vary the form and procedures for its execution.

(2) An application shall be adjudicated at a court sitting, upon prior notice thereof to the participants in the matter.

The failure of such persons to attend is not an impediment to the adjudicating of the application.

(3) An ancillary complaint may be submitted regarding a court decision as postpones the execution of a judgment or divides it into time periods, or varies the form and procedures for its execution.

Section 439. Actions by an Appellate Instance Court, if a Judgment is not Appealed in Accordance with Cassation Procedures

After expiration of the time period provided for the submission of a cassation complaint, if a cassation complaint has not been submitted, an appellate instance court shall send the matter to the court of first instance.

Section 440. Stays of Proceedings, Leaving Claims Unadjudicated and Termination of Court proceedings by Appellate Instance Courts

Appellate instance courts shall stay court proceedings, leave a claim unadjudicated or terminate court proceedings in the cases and in accordance with the procedures prescribed in Chapters 24, 25 and 26 of this Law.

Division Nine

Appeal of Decisions of Courts of First Instance and of Courts of Appellate Instance

Chapter 55

Submitting and Adjudicating Ancillary complaints

Section 441. Basis for Appeal or Protest of a Decision of a First Instance Court or of Appellate Instance Court

(1) The decisions of a first instance court or of an appellate instance court may be appealed separately from a court judgment by participants in the matter, by the submission of an ancillary complaint, or by a public prosecutor, by the submission of an ancillary protest:

- 1) in cases provided for by this Law; or
- 2) if the court decision hinders the matter being proceeded with.

(2) An ancillary complaint may not be submitted regarding other decisions of a first instance court or of an appellate instance court; objections to such decisions, however, may be expressed in an appellate complaint or a cassation complaint.

(3) An ancillary protest shall be submitted and adjudicated in accordance with the same procedures as pertain to ancillary complaints.

Section 442. Time Periods for Submitting an Ancillary complaint

(1) An ancillary complaint may be submitted within 10 days from the day when the decision is taken by a court, unless otherwise set out in this Law.

(2) An ancillary complaint which has been submitted after the elapse of the referred to time period, shall not be accepted and shall be returned to the submitter.

Section 443. Procedures for Submitting an Ancillary complaint

(1) An ancillary complaint shall be submitted to the court, which has taken the decision, and it shall be addressed:

- 1) in regard to a decision of a court of first instance, to the relevant appellate instance court;
- 2) in regard to a decision of a regional court as a court of appellate instance, the Civil Matters Court Panel of the Supreme Court; and

3) in regard to a decision of the Civil Matters Court Panel, the Civil Matters Department of the Senate of the Supreme Court.

(2) A State fee shall not be charged for an ancillary complaint.

Section 444. True Copies of an Ancillary complaint

Appended to an ancillary complaint shall be true copies of it and true copies of the documents accompanying the claim, in number corresponding to the number of participants in the matter.

Section 445. Leaving an Ancillary complaint Unadjudicated

(1) If the submitter does not sign an ancillary complaint or all of the required true copies are not appended to it, a judge shall take a decision to leave the ancillary complaint unadjudicated and set a time limit for rectification of deficiencies.

(2) If the submitter rectifies the deficiencies indicated in the decision within the time limit set, the appellate claim shall be deemed to have been submitted on the date when it was first submitted. Otherwise, the ancillary complaint shall be deemed not to have been submitted and shall be returned to the submitter.

Section 446. Court Action after Receipt of an Ancillary complaint

(1) After receipt of an ancillary complaint, a judge shall without delay send true copies of the claim and true copies of documents accompanying it to the participants in the matter.

(2) After expiration of the time period for appeal, the judge shall without delay forward the matter with the ancillary complaint to that instance of court to which the complaint is addressed.

Section 447. Procedures for Adjudicating an Ancillary complaint

(1) An ancillary complaint shall be adjudicated according to the procedures prescribed by this Law for the adjudicating of matters in a court of appellate instance, except for the cases provided for in Paragraph two of this Section.

(2) An ancillary complaint regarding the decision of a judge outside a court sitting and regarding decisions of a Land Register office judge shall be adjudicated by written proceedings without organising a court sitting. The court shall notify participants in the matter regarding the day of adjudication of the ancillary complaint.

[25 May 2006]

Section 448. Competence of a Regional Court, the Court Panel and the Senate

(1) A regional court, the Court Panel and the Senate, when adjudicating an ancillary complaint, have the right:

1) to leave the decision unamended and dismiss the complaint;

2) to set aside the decision in full or in part and refer the matter for re-adjudication to the court which made the decision;

3) to set aside the decision in full or in part and pursuant to its own decision decide the issue on the merits; or

4) to amend the decision.

(2) A regional court or the Court Panel, when adjudicating an ancillary complaint regarding a decision by which an application regarding renewal of court proceedings and adjudicating of the matter *de novo* has been dismissed in a matter where a default judgment has been rendered, has the right:

- 1) to leave the decision unamended and dismiss the complaint; or
- 2) to set aside the decision, to renew the court proceedings and refer the matter for adjudication *de novo* to the first instance court.

[31 October 2002]

Section 449. Lawful Effect of a Decision Taken regarding an Ancillary complaint

(1) A decision taken regarding an ancillary complaint may not be appealed and shall come into legal effect at the time when it is made, except in the cases provided for in this Section and Section 641 of this Law.

(2) A decision of a regional court or of the Court Panel regarding an ancillary complaint may be appealed to the Senate within 10 days from the day the decision was taken if by this decision:

- 1) an ancillary complaint has been dismissed regarding a decision to refuse to accept a claim, on the basis of Section 132, Paragraph one, Clauses 1 and 2 of this Law;
- 2) an ancillary complaint has been dismissed regarding termination of court proceedings, on the basis of Section 223, Clauses 1 and 2 of this Law; or
- 3) in deciding the issue on the merits in accordance with Section 448, Clause 3 of this Law, a decision to refuse to accept a claim, on the basis of Section 132, Paragraph one, Clauses 1 and 2 of this Law or a decision to terminate court proceedings, on the basis of Section 223, Clauses 1 and 2 of this Law has been taken.

(3) A decision of the Court Panel regarding an ancillary complaint in regard to a decision of a Land Register judge may be appealed to the Senate within 10 days from the day it is made.

(4) Where a decision as provided for in Paragraphs two or three of this Section, as well as in Section 641, Paragraph one of this Law is appealed to the Senate, a security deposit in the amount of 40 lats shall be paid in. Persons who in accordance with the law or a decision of a court or judge are released from State fees need not pay the security deposit. A court or judge taking into account the financial circumstances of a natural person may fully or partially release the person from the payment of a security deposit.

[31 October 2002; 7 April 2004; 25 May 2006]

Division Ten Cassation Procedure

Chapter 56 Submission of Cassation Complaints

Section 450. Right to Submit a Cassation Complaint or a Cassation Protest

(1) A judgment (supplementary judgment) of an appellate instance court may be appealed by participants in the matter in accordance with cassation procedures, and a public prosecutor may submit a cassation protest.

(2) A cassation protest shall be submitted and adjudicated in accordance with the same procedures as cassation complaints provided that it is not otherwise provided for by this Division.

(3) A judgment of an appellate instance court may be appealed pursuant to cassation procedures if the court has breached norms of substantive or procedural law or, in adjudicating a matter, has acted outside its competence.

Section 451. Violation of Norms of Substantive Law

It shall be deemed that a norm of substantive law has been violated if the court:

- 1) has not applied such norm of substantive law as should have been applied;
- 2) has applied a norm of substantive law which should not have been applied; or
- 3) has wrongly construed a norm of substantive law

Section 452. Violation of Norms of Procedural Law

(1) It shall be deemed that a norm of procedural law has been violated if the court:

- 1) has not applied such norm of procedural law as should have been applied;
- 2) has applied a norm of procedural law which should not have been applied; or
- 3) has wrongly construed a norm of procedural law.

(2) Breach of a norm of procedural law may serve as the basis for an appeal pursuant to cassation procedures if such breach has led or may have led to an erroneous adjudication of the matter.

(3) The following shall in any event be regarded as a breach of a norm of procedural law as may have led to an erroneous adjudication of a matter:

- 1) the court that adjudicated the matter was unlawfully constituted;
- 2) the court has adjudicated the matter in breach of norms of procedural law which stipulate a duty to notify participants in the matter regarding the time and place of the court sitting;
- 3) norms of procedural law regarding the language of the court proceedings have been breached;
- 4) a court judgment confers rights or imposes duties upon a person who has not been summoned to the matter as a participant in the procedure; and
- 5) there are not minutes of the court sitting or there is not a full judgment in the matter.

Section 453. Contents of a Cassation Complaint

(1) There shall be set out in a cassation complaint:

- 1) the name of the court to which the complaint is addressed (the Civil Matters Department of the Senate of the Supreme Court);
- 2) the given name, surname, personal identity code and place of residence of the submitter of the complaint, but for a legal person – name, registration number and location (legal address);
- 3) the judgment regarding which the complaint has been submitted and the court which has made the judgment;
- 4) the extent to which the judgment is appealed;
- 5) what norm of substantive or of procedural law has been breached by the court and how such breach is manifested, or in what way the court has exceeded the scope of its competence;
- 6) a petition for the Senate assignments sitting to refer the matter for adjudication in accordance with cassation procedures; and
- 7) the request made to the Senate.

(2) The submitter or his or her authorised representative shall sign a cassation complaint. If the cassation complaint has been submitted by the representative, the complaint shall appended the relevant authorisation or other document, which certifies the rights of the representative. The cassation protest shall be signed by an official of the Office of the Prosecutor specified by law.

(3) A cassation complaint submitted by a person who has not been authorised thereto shall not be accepted and shall be returned to the submitter, refunding the security deposit.

(4) There shall be appended to a cassation complaint a document that confirms the payment of a security deposit.

[31 October 2002; 12 February 2004]

Section 454. Time Periods for Submitting a Cassation Complaint

(1) A cassation complaint may be submitted within 30 days from the day a judgment is pronounced.

(2) If an abridged judgment has been pronounced, the time period for appeal shall be calculated from the date, which the court has announced for drawing up of a full judgment (Section 199).

(3) A complaint submitted after the elapse of such time period shall not be accepted and shall be returned to the submitter, refunding the security deposit.

[31 October 2002]

Section 455. Appeal of a Judge's Decision

An ancillary complaint may be submitted regarding a decision of a judge to refuse to accept a cassation complaint.

Section 456. Procedures regarding Submission of Cassation Complaints

(1) A cassation complaint shall be submitted to the court, which rendered the judgment.

(2) If a cassation complaint is directly submitted to a cassation court within the time period pertaining to cassation complaints, it shall not be considered that the time period has not been met.

Section 457. True Copies of a Cassation Complaint

A cassation complaint shall be submitted together with true copies thereof, corresponding in number to the number of participants in the matter.

Section 458. Security Deposit

(1) Upon a cassation complaint being submitted, a security deposit shall be paid in the amount of fifty lats.

(2) If the Senate, in full or in part, sets aside or amends an appealed court judgment, the security deposit shall be refunded. If a cassation complaint is dismissed, the security deposit shall not be refunded.

(3) If a cassation complaint is withdrawn prior to the Senate assignments sitting, the security deposit shall be refunded to the submitter.

(4) A security deposit is not required to be paid by persons who pursuant to law or a judgment of a court or a judge are exempted from State fees.

Section 459. Leaving a Cassation Complaint Not proceeded With

(1) If a submitted cassation complaint does not conform to the requirements of Section 453, Paragraph two of this Law, all required true copies have not been appended to the cassation complaint or a security deposit has not been paid, a judge of the appellate instance court shall take a

decision to leave the cassation complaint not proceeded with and set a time period for rectification of deficiencies.

(2) If the submitter, within the time period set, rectifies the deficiencies indicated in the decision, the cassation complaint shall be deemed to have been submitted on the day when it was first submitted.

(3) If the submitter has not rectified the deficiencies indicated in the decision within the time period set, the cassation complaint shall be deemed not to have been submitted and shall be returned to the submitter.

(4) An ancillary complaint may be submitted regarding a decision of a judge pursuant to which a cassation complaint has been returned to the submitter.

(5) If the Senate determines that the deficiencies set out in the first Paragraph of this Section exist, a cassation complaint shall be returned to the appellate instance court for the execution of the activities prescribed by Paragraphs two, three and four of this Section.

Section 460. Action by an Appellate Instance Court after Receipt of a Cassation Complaint

(1) A judge of an appellate instance court shall send true copies of a cassation complaint to other participants in the matter and notify them that they have the right to submit explanations to the Senate in relation to the cassation complaint within 30 days from the day the true copies are sent.

(2) Upon expiration of the time period for appeal of a judgment, an appellate instance court shall without delay forward the civil matter file together with the cassation complaint to the Senate.

Section 461 Joining in a Cassation Complaint

(1) Co-participants in the matter and third persons who participate in the procedure on the same side as the person who has submitted a cassation complaint, may join in the submitted complaint.

(2) A security deposit is not required to be paid upon an application to join in a cassation complaint being submitted.

[31 October 2002]

Section 462. Withdrawal of a Cassation Complaint

(1) A person who has submitted a cassation complaint has the right to withdraw it until the cassation instance court sitting.

(2) If a cassation complaint is withdrawn, the cassation proceeding in the matter shall be terminated.

Section 463. Submitting a Cross Complaint

(1) A participant in a matter may submit his or her cross complaint to the Senate within 30 days from the day the true copy of the cassation complaint is forwarded.

(2) In submitting a cross complaint, the provisions of Sections 450, 451, 452, 453, 457 and 458 of this Law shall be observed.

(3) If a cassation complaint is withdrawn, the cross complaint shall be adjudicated independently.

Chapter 57

Adjudicating Matters at Cassation Instance

Section 464. Senate Assignments Sitting

- (1) All cassation complaints and protests submitted to the Senate after the end of the time period for the submission of the explanation provided for in Section 460, Paragraph one of this Law, shall be examined at an assignments sitting in order to decide whether they comply with the requirements of Sections 450-454 of this Law and whether they are to be adjudicated at a cassation instance court sitting.
 - (2) A civil matter shall be examined at an assignments sitting by a collegium of the Senate, composed of three judges appointed by the Chairperson of the Senate Department.
 - (3) If a collegium of the Senate unanimously finds that a cassation complaint does not comply with the requirements of law, it shall take a decision to terminate the cassation proceedings.
 - (4) If at least one of the senators considers that a matter should be adjudicated at cassation instance, the collegium of the Senate shall take a decision to refer the matter for it to be adjudicated in accordance with cassation procedure.
 - (5) By unanimous decision of a collegium of the Senate, a matter may be referred for it to be adjudicated, in accordance with cassation procedure, to the Senate in expanded composition.
 - (6) If a matter is referred for the adjudicating thereof to the Senate, pursuant to the application of a party, execution of judgment in such matter may be stayed pursuant to the decision of an assignments sitting.
 - (7) If in a Senate assignments sitting, the collegium of the Senate take a decision regarding the assigning of a matter to the European Court of Justice for the rendering of a preliminary ruling, it shall suspend the court proceedings until the adjudication of the European Court of Justice comes into legal force.
- [19 June 2003; 7 April 2004]*

Section 465. Listing a Matter for Adjudication at a Senate Sitting

- (1) The time, composition of the court and referent for the adjudicating of a matter shall be determined by the Chairperson of the Department of the Senate. Notification of the time and place of the proceeding shall be given to the participants in the matter.
- (2) A matter shall be adjudicated at cassation instance by three senators, but in the cases provided for by this Law, by a collegium of the Senate composed of not less than seven senators.

Section 466. Commencement of Adjudication of a Matter

- (1) The chairperson for a sitting shall open the court sitting and inform as to what proceeding is being adjudicated by the Senate.
 - (2) The chairperson for a sitting shall ascertain which participants in the matter have arrived, their identity and the authorisation of representatives.
- [31 October 2002; 12 February 2004]*

Section 467. Explanation of Rights and Duties to the Participants in a Matter

- (1) The chairperson for a sitting shall announce the court panel and the name of the public prosecutor and the interpreter, if they participate in the court sitting, and shall explain to the

participants in the matter their right to apply for a removal, as well as other procedural rights and duties.

(2) The grounds for removal and procedures for taking decisions on removal are as prescribed by Sections 19-21 of this Law.

[31 October 2002; 12 February 2004]

Section 468. Consequences Resulting from a Failure to Attend by Participants in a Matter

The failure to attend by the participants in a matter who have duly been notified of the time and place of a cassation instance court sitting is not an impediment to the adjudication of the matter.

Section 469. Deciding on Applications

Applications from participants in a matter relating to the adjudicating of the matter shall be decided after hearing the opinions of the other participants in the matter.

[31 October 2002; 12 February 2004]

Section 470. Report on a Matter

The adjudicating of a matter shall commence with a report on the matter by the referent senator.

Section 471. Explanations of Participants in a Matter and Opinion of the Public Prosecutor

(1) Following the report of the senator, a court shall give a hearing to explanations by the parties or the representatives thereof. The court may previously set a time for providing of explanations; however, both sides shall be allotted equal time.

(2) The participant who submitted the cassation complaint, or a public prosecutor, if he or she has submitted a protest, shall speak first. If a judgment has been appealed by both parties, the plaintiff shall speak first.

(3) Senators may ask questions of the participants in the matter.

(4) Each party has the right to one reply.

(5) If a public prosecutor participates in a proceeding for which a cassation protest has not been submitted, he or she shall deliver an opinion following the explanations and replies of the parties.

[31 October 2002; 12 February 2004]

Section 472. Rendering Judgment

(1) Subsequent to the explanations of the participants in the matter and the opinion of the public prosecutor, a court shall retire to the deliberation room to render judgment.

(2) If, in adjudicating a matter in three senator composition, a court does not reach a unanimous opinion, or all the senators consider that the matter should be adjudicated in expanded composition, the court shall take a decision to refer the matter to the Senate for it to be adjudicated in expanded composition.

(3) In the adjudicating of a matter in expanded composition, judgment shall be made by a majority vote and signed by all the senators.

(4) Subsequent to deliberation by the senators, a court shall return to the courtroom, and the chairperson of the sitting shall pronounce the judgment, by reading its operative part, and shall

inform the participants in the matter as to when they may become acquainted with the full text of the judgment.

(5) If the senators acknowledge that in this court sitting it is not possible to render a judgment, the Senate shall determine the next court sitting in which it shall notify the judgment within the nearest 14 day time period.

[19 June 2003]

Section 472.¹ Suspension of Court Proceeding in a Cassation Instance

If the cassation instance court takes a decision regarding the assigning of a matter to the European Court of Justice for the rendering of a preliminary ruling, it shall suspend the court proceedings until the adjudication of the European Court of Justice comes into legal force.

[7 April 2004]

Chapter 58 Judgment of a Cassation Instance Court

Section 473. Limits regarding Adjudication of Matters

(1) In adjudicating a matter by way of cassation procedure, a court shall examine the validity of the existing judgment for the appealed part of the matter regarding persons who have appealed the judgment or who have joined in the cassation complaint and regarding arguments which have been mentioned in the cassation complaint.

(2) A court may set aside the entire judgment, even though only a part of it has been appealed from, if it determines that such violations of law exist as have led to an erroneous adjudication of the entire matter.

Section 474. Rights of a Cassation Court

A court, following its adjudicating of the matter, may render one of the following judgments:

- 1) to leave the decision unamended and to dismiss the complaint;
- 2) to set aside the whole judgment, or a part thereof, and forward the matter for re-adjudication to an appellate or first instance court;
- 3) to set aside the whole judgment or a part thereof, and leave the application not proceeded with, or to terminate the court proceeding, if the court of second instance has not complied with the provisions of Section 219 or 223 of this Law; or
- 4) amend the judgment in regard to the part thereof pertaining to the extent of the claim, if, as a result of erroneous application of a substantive legal norm, it has been determined incorrectly.

[31 October 2002]

Section 475. Contents of a Judgment by a Cassation Court

(1) A judgment by a cassation court shall consist of an introduction, of a descriptive part, of a reasoned part and an operative part.

(2) In the introductory part, the court shall set out:

- 1) the name and composition of the court;
- 2) the time when the judgment is rendered;
- 3) the participants in the matter and the subject-matter of the dispute; and

4) the persons who have submitted the cassation complaint (cross-complaint) or have joined in it.

(3) In the descriptive part, the court shall set out:

- 1) a brief description of the circumstances of the matter;
- 2) the substance of the appellate instance court judgment;
- 3) the reasons for the cassation complaint; and
- 4) the reasons for the cross complaint, or the substance of the explanations.

(4) In the reasoned part, the court shall set out:

1) in dismissing a cassation complaint, arguments due to which the complaint has been dismissed; or

2) in satisfying a cassation complaint – arguments regarding the violation of norms of law allowed by the appellate instance court and the erroneous construal thereof or the exceeding of the scope of its competence.

(5) In the operative part, a court shall set out the adjudication in accordance with the relevant Clause of Section 474 of this Law.

Section 476. Mandatory Directions of a Cassation Court

(1) The interpretation of law, which is expressed in a judgment of a cassation court, shall be mandatory for the court, which re-adjudicates the matter.

(2) In its judgment, a cassation instance court shall not set out what judgment shall be rendered in re-adjudicating the matter.

Section 477. Lawful Effect of a Judgment by a Cassation Court

A cassation court judgment may not be appealed and comes into effect at the time it is pronounced.

Division Eleven

Re-adjudicating Matters regarding which a Judgment or a Decision has Come into Lawful Effect

Chapter 59

Re-adjudicating Matters in Connection with Newly-Discovered Facts

Section 478. Submitting an Application

(1) In connection with newly-discovered facts a matter may be initiated by a participant in the matter by submitting an application:

1) regarding the setting aside of a judgment or a decision of a district (city) court, to the regional court concerned;

2) regarding the setting aside of a judgment or a decision of a regional court, to the Civil Matters Court Panel of the Supreme Court; and

3) regarding the setting aside of a judgment or a decision of the Court Panel, to the Senate Civil Matters Department of the Supreme Court.

(2) The application may be submitted within three months from the day when the facts forming a basis for re-adjudication of the matter have been ascertained.

(3) The application may not be submitted if more than 10 years have elapsed since the judgment or the decision has come into effect.

Section 479. Newly-Discovered Facts

The following shall be deemed to be newly-discovered facts:

- 1) essential facts of a matter which existed at the time of the adjudicating of the proceeding but were not and could not have been known to the applicant;
- 2) the determination, pursuant to a court judgment which has come into lawful effect regarding a criminal matter, that there was knowingly false testimony of witnesses, expert opinions, or interpretations, or fraudulent written or real evidence, upon which the rendering of a judgment was based;
- 3) the determination, pursuant to a court judgment that has come into lawful effect regarding a criminal matter, of criminal acts due to which an unlawful or unfounded judgment has been rendered or a decision taken;
- 4) the setting aside of such court judgment or such decision by another institution as was a basis for the rendering of the judgment or taking of the decision in this matter; or
- 5) the acknowledgement of a norm of law applied in the adjudication of the matter as not in conformity with a higher norm of law in legal effect.

[20 June 2001]

Section 480. Calculation of Time Period for Submitting an Application

The time period for submitting an application shall be calculated:

- 1) regarding the facts set out in Section 479, Clause 1 of this Law, from the day such facts become disclosed;
- 2) in the cases set out in Section 479, Clauses 2 and 3 of this Law, from the day the judgment regarding the criminal matter has come into lawful effect;
- 3) in the cases set out in Section 479, Clause 4 of this Law, from the day of coming into lawful effect of an adjudication of a court by which a judgment regarding a civil matter or a criminal matter has been set aside or from the day of setting aside of a decision of another institution, on which is based the judgment or decision being petitioned to be set aside due to newly-discovered facts; and
- 4) in the case set out in Section 479, Clause 5 of this Law, from the day of coming into lawful effect of a judgment or other decision in relation to which the norm of law applied loses effect as not in conformity with a higher norm of law in legal effect.

[20 June 2001]

Section 481. Adjudicating Applications

- (1) An application in connection with newly-discovered facts may be adjudicated by a court sitting in a panel of three judges.<
- (2) Notice regarding the sitting of the court shall be given and a true copy of the application shall be sent to the participants in the matter. The failure of such persons to attend is not an impediment to the adjudicating of the application.

Section 482. Court Decision

- (1) After examining the application, a court shall examine whether the facts indicated by the applicant are to be found to be newly-discovered facts in accordance with Section 479 of this Law.

- (2) If a court determines that there are newly-discovered facts, it shall set aside the appealed judgment or decision in full or as to part thereof and refer the matter for it to be re-adjudicated in a court of first instance.
- (3) If a court finds that the facts indicated in an application are not to be found to be newly-discovered, it shall dismiss the application.
- (4) An ancillary complaint may be submitted regarding a decision of the court.

Chapter 60

Adjudicating Matters in Connection with Breach of Significant Substantive or Procedural Norms of Law

Section 483. Submitting a Protest

A protest regarding a court adjudication that has come into effect may be submitted to the Senate by the Chairperson of the Senate Civil Matters Department or the prosecutor general, provided that not more than 10 years have elapsed since the adjudication came into effect.

Section 484. Grounds for Submitting a Protest

The grounds for submitting a protest regarding a court adjudication are the breach of substantive or procedural norms of law as has been ascertained in matters which have only been adjudicated in a court of first instance, if the court adjudication has not been appealed pursuant to procedures prescribed by law due to reasons independent of the participants in the matter, or the infringement, pursuant to a court adjudication, of the rights of State or local government institutions or of such persons as were not participants in the matter.

Section 485. Procedures for Adjudicating Protests

A protest shall be adjudicated by the Senate in accordance with the procedures prescribed in Sections 464-477 of this Law.

Part D.

Arbitration Court

Division Twelve

Establishment and Operations of an Arbitration Court

Chapter 61

General Provisions

Section 486. Establishment of an Arbitration Court

- (1) An arbitration court may be established for the resolution of a specific dispute. The arbitration court may also operate permanently.
- (2) A permanent arbitration court shall operate on the basis of rules of procedure, whereas an arbitration court established for the resolution of a specific dispute shall operate in accordance with the procedures prescribed by this Law.
- (3) A permanent arbitration court may be established by one or more legal persons. The permanent arbitration court shall commence operations after registration in the Arbitration Court Register. The

Enterprise Register shall maintain the Arbitration Court Register. The Cabinet shall determine amount of the State fee for the making of a record in the Arbitration Court Register, the procedures for the payment thereof and rebates.

(4) In order for an arbitration court to register in the Arbitration Court Register, the founders of the arbitration court shall submit to the Enterprise Register the rules of procedure of the arbitration court and other documents in accordance with regulatory enactments regarding the procedures for the registration of an arbitration court.

(5) The name of a permanent arbitration court may not coincide with the name of an arbitration court already registered or a registration applied for, as well as it may not include misleading information regarding important circumstances of the operation of the arbitration court. The specified restrictions for merchants in respect of the selection of a firm name shall also apply to the names of arbitration courts.

(6) The resolution of disputes by an arbitration court is not commercial activity.

[17 February 2005]

Section 486.¹ Arbitration Court Rules of Procedure

(1) The rules of procedure of a permanent arbitration court shall indicate:

1) the name of the arbitration court. In addition to the name of the arbitration court in Latvian, the rules of procedure may indicate the name of the arbitration court in one or more foreign languages;

2) the procedures for the appointment, removal and ending of authorisation of arbitrators;

3) the procedures by which the signature of arbitrators on awards shall be certified;

4) the procedures for the preparation of the arbitration court proceedings;

5) the procedures for the resolving of disputes – procedural time periods, the procedures for the renewal or extension thereof, the procedures for the submission of counterclaims, the procedures for the deferment and extension of the resolution of disputes and other procedural issues;

6) the name (firm name) of the founders; and

7) other provisions, which are not in conflict with the law.

(2) If amendments are made to the rules of procedure, the text of the amendment, as well as the new version of the full text of the rules of procedure shall be submitted to the Enterprise Register. Amendments to the rules of procedure shall acquire legal effect after the registration thereof.

[17 February 2005]

Section 487. Disputes Resolvable by Arbitration Courts

Any civil dispute may be referred for resolution to an arbitration court, with the exception of a dispute:

1) the award of which may infringe the rights or the interests protected by law of such a person as is not a party to the arbitration court agreement;

2) in which a party, albeit even one, is a State or local government institution or the award of the arbitration court may affect the rights of State or local government institutions;

3) which is related to amendments to the Civil Records Registry;

4) which is related to the rights and duties of persons under guardianship or trusteeship or to their interests protected by law;

5) regarding establishment, alteration or termination of property rights in regard to immovable property, if among the parties to the dispute there is a person whose rights to acquire immovable property in ownership, possession or use are restricted by law;

- 6) regarding the eviction of a person from living quarters;
 - 7) between employees and employers if the disputes has arisen entering into, amending, terminating or implementing an employment contract, as well as in applying or translating provisions of regulatory enactments, collective labour contract or working procedures (individual labour rights dispute); and
 - 8) regarding the rights and duties of such persons as who, up to the taking of the award of the arbitration court, have been declared insolvent.
- [31 October 2002; 17 February 2005]

Section 488. Procedural Norms Applicable to Resolution of Disputes

Only the procedural norms provided for in Part D of this Law, except insofar as this Part may otherwise provide, shall be binding on an arbitration court.

Section 489. Norms of Substantive Law Applicable to Resolution of Disputes

- (1) In resolving a dispute, an arbitration court shall first consider whether the parties have agreed as to what laws or what customary transaction practices their mutual relations are to be adjudicated pursuant to. Such agreement shall apply to the extent it does not conflict with the provisions of Sections 19, 24 and 25 of the Civil Law.
- (2) If such an agreement does not exist or the arbitration court has found it to be invalid, the law applicable to the legal relations of the parties shall be determined in accordance with the provisions of the Introduction to the Civil Law.

Chapter 62

Arbitration Court Agreement

Section 490. Concept of an Arbitration Court Agreement

- (1) An arbitration court agreement is an agreement entered into by parties in accordance with the procedures provided for by this Law regarding the referring of a dispute for resolution to an arbitration court.
- (2) Parties may agree to refer a dispute as has arisen or as may arise in the future for resolution to an arbitration court.

Section 491. Parties to an Arbitration Court Agreement

An arbitration court agreement may be entered into by:

- 1) a natural person who has the capacity to act, irrespective of his or her citizenship and place of residence;
- 2) a legal person registered in Latvia or in a foreign state; or
- 3) other private law subjects.

[17 February 2005]

Section 492. Form of an Arbitration Court Agreement

- (1) An arbitration court agreement shall be entered into in written form. It may be included in any agreement as a separate provision (an arbitration court clause).

(2) Such agreement as has been entered into by exchange of letters, faxes or telegrams or utilisation of other means of telecommunication as ensure that the intent of both parties to refer a dispute or a possible dispute for resolution to an arbitration court is recorded, shall also be considered an agreement in writing.

(3) The agreement may include a stipulation regarding the procedures for resolution of disputes in accordance with the rules of procedure of the arbitration court or with the agreement of the parties.

(4) An arbitration court agreement may be rescinded or amended pursuant to an agreement in writing between the parties.

Section 493. Validity of an Arbitration Court Agreement

(1) Persons who have entered into an agreement to refer a dispute for resolution to an arbitration court do not have the right to withdraw therefrom unless the arbitration court agreement has been amended or rescinded pursuant to the procedures stipulated by law or by the agreement.

(2) An arbitration court agreement shall be in effect so long as the legal relations in connection with which, it has been entered into have not been terminated.

(3) If an agreement to refer a dispute for resolution to an arbitration court is contained in a contract entered into by parties as a separate provision, such agreement shall be regarded as an independent agreement. If the time period of the contract has expired or the contract has been declared to not be in effect, the agreement to refer a dispute for resolution to an arbitration court shall remain in effect.

(4) Each party has the right to unilaterally withdraw from the arbitration court agreement, upon notification to the other party thereof, if the parties have not stipulated another time period for examination of the matter by an arbitration court and if one of the following provisions applies:

1) during the arbitration court proceedings the composition of the arbitration court has not been established, or no procedural activities have been performed, for more than four months;

2) the arbitration court has not completed the examination of the matter with a decision within a period of one year from the initiation of the arbitration court proceedings.

Section 494. Law Applicable to an Arbitration Court Agreement

If an arbitration court agreement does not stipulate under the laws of what state the validity of such agreement is to be determined, the applicable law for the arbitration court agreement shall be determined in accordance with Sections 19 and 25 of the Civil Law.

Chapter 63

Preparation regarding Arbitration Court Proceedings

Section 495. Determination of Jurisdiction regarding Disputes

(1) The arbitration court itself shall decide as to jurisdiction regarding a dispute, including in cases where one of the parties disputes the existence or the being in effect of the arbitration court agreement.

(2) A submission regarding the fact that a dispute is not subject to an arbitration court may be submitted by a party until the day when the time period for submission of a reference expires.

(3) An arbitration court may decide a matter regarding determination of jurisdiction over a dispute at any stage of the arbitration court proceedings.

Section 496. Securing a Claim before the Claim is Raised in Disputes which are Subject to Resolution by an Arbitration Court

(1) Pursuant to an application by a potential plaintiff, a court may, according to the location of the debtor or the location of the property of the debtor, secure a claim before it is made in accordance with the procedures prescribed in Section 139 of this Law. The same court shall, pursuant to petition by a party or an arbitration court, decide as to setting aside or varying the security for the claim.

(2) An application for the securing of a claim or an application for varying security for a claim shall not be considered as failure to observe the arbitration court agreement and shall not impede the resolution of a dispute by an arbitration court.

[7 September 2006]

Section 497. Arbitrators

(1) An arbitrator is a person who, in conformity with the provisions of an arbitration court agreement and of this Law, is appointed to resolve a dispute.

(2) Any person having the capacity to act may be appointed as an arbitrator, irrespective of his or her citizenship and place of residence, if such person has agreed in writing to be an arbitrator.

(3) Arbitrators shall perform their duties in good faith, without being subject to any influence; they shall be objective and independent.

Section 498. Number of Arbitrators

(1) The number of arbitrators shall be comprised of an odd number. If parties have not agreed as to the number of arbitrators, the arbitration court shall consist of three arbitrators.

(2) An arbitration court may also consist of one arbitrator, if the parties agree thereto.

Section 499. Appointment of Arbitrators

(1) The procedures regarding appointment of arbitrators shall be determined by the parties.

(2) Parties may entrust the appointment of arbitrators to any natural or legal person having the capacity to act.

(3) If the parties have agreed that a dispute shall be referred to be resolved by a permanent arbitration court, but have not agreed regarding the procedures for the appointment of arbitrators, the arbitrators shall be appointed in accordance with the rules of procedure of the arbitration court, taking into account the equality of the parties.

(4) If parties have not agreed regarding the referring of a dispute to a permanent arbitration court and the procedure regarding appointment of arbitrators, each party shall appoint one arbitrator who, agreeing between themselves, shall appoint the third arbitrator, who shall be the chairperson of the arbitration court panel.

Section 500. Dismissal of Arbitrators

If a party has appointed an arbitrator and has notified the other party thereof, the first party may not dismiss such arbitrator without the consent of the other party.

Section 501. Grounds for Removal of an Arbitrator

(1) A person who is requested to consent to being appointed as an arbitrator shall disclose to the parties any facts, which could cause well-founded doubt as to the objectivity and independence of such person. If the arbitrator, up to the end of the arbitration court proceeding, knows such facts he or she shall without delay disclose them to the parties.

(2) An arbitrator may be removed, if facts exist which cause well-founded doubt as to his or her objectivity and independence, as well as if his or her qualifications do not conform to those agreed by the parties. A party may remove an arbitrator whom it has appointed or in whose appointment it has participated, only where the grounds for removal have become known to such party after the appointment of the arbitrator.

Section 502. Procedures regarding Removal of an Arbitrator

(1) Parties may agree on the procedures regarding removal of an arbitrator.

(2) Where a permanent arbitration court is resolving a dispute and the parties have not agreed on the procedures regarding removal of an arbitrator, they shall be determined in accordance with the rules of procedure of the arbitration court.

(3) Where a dispute is being resolved by an arbitration court which has been established for the resolution of the specific dispute and the parties have not agreed on the procedures regarding removal of an arbitrator, the party which intends to remove an arbitrator, within 15 days from the day the party is informed of the appointment of such arbitrator or becomes informed of a condition mentioned in Section 501 of this Law, shall send to the arbitrators a notice, setting out therein the arbitrator the party wishes to remove and the grounds for the removal. If the arbitrator to whom the removal has been declared does not withdraw from performing his or her duties, the other arbitrators shall decide the issue regarding the removal thereof. If a single arbitrator is resolving the dispute, this arbitrator shall decide the issue regarding the removal.

Section 503. Termination of Authorisation of an Arbitrator

(1) Authorisation of an arbitrator is terminated:

- 1) if the removal of the arbitrator is accepted;
- 2) if the arbitrator has refused to resolve the dispute;
- 3) if the parties agree on the termination of authority of the arbitrator; or
- 4) upon the death of the arbitrator.

(2) Parties may freely agree as to the procedure regarding termination of authority of arbitrators. If the parties have not agreed on the procedure regarding termination of authorisation of arbitrators and a permanent arbitration court examines the dispute, the provisions of the rules of procedure of the arbitration court shall apply.

Section 504. Appointment of a New Arbitrator

If the authority of an arbitrator is terminated, a new arbitrator shall be appointed in accordance with the procedures prescribed in Section 499 of this Law.

Chapter 64

Resolution of a Dispute by an Arbitration Court

Section 505. Equal Rights of and Adversarial Proceedings between Parties

In resolving a dispute, an arbitration court shall observe the principle of equal rights of and adversarial proceedings between parties. Each party has equal right to express their opinion and defend their rights.

Section 506. Determining Arbitration Court Procedures

- (1) Parties have the right to freely determine the procedures of the arbitration court.
- (2) If parties have agreed to refer a dispute for resolution to a permanent arbitration court, but have not agreed as to the arbitration court procedures, the dispute shall be resolved in accordance with the rules of procedure of the permanent arbitration court.
- (3) If an arbitration court, which has been established for the resolution of the specific dispute, resolves a dispute and the parties have not agreed on the arbitration court procedures, the arbitration court shall determine these procedures itself.
- (4) The chairperson of the panel of an arbitration court may independently decide procedural issues, if the parties or the other arbitrators have entrusted him or her with this.

Section 507. Time Periods

- (1) An arbitration court itself shall set procedural time periods, within the limits of the time periods prescribed in Section 493 of this Law.
- (2) A permanent arbitration court shall observe the procedural time periods stipulated in the rules of procedure of the arbitration court.
- (3) Procedural time periods in a permanent arbitration court shall be renewed or extended according to the procedures specified in the rules of procedure thereof.

[17 February 2005]

Section 508. Place for Resolving a Dispute

Parties have the right to freely determine the place for resolution of a dispute. If the parties have not agreed thereto, the arbitration court shall determine the place for resolution of the dispute.

Section 509. Language of the Arbitration Court

- (1) The proceedings of an arbitration court shall be conducted in the official language. The proceedings may be conducted in another language if the parties have agreed thereto.
- (2) If any of the participants in the proceedings is not fluent in the language in which the proceedings are conducted, the arbitration court shall summon an interpreter. The arbitration court shall determine the procedures pursuant to which the interpreter services are paid for.
- (3) An arbitration court may require from parties a translation of any written evidence, or a translation certified by a notary, into the language in which the proceedings is conducted.

Section 510. Representation of Parties

- (1) Natural persons shall conduct their matters in an arbitration court themselves or through their authorised representatives.
 - (2) Matters of legal persons shall be conducted in an arbitration court by their officials who act within the scope of the authorisation conferred pursuant to law, articles of association or by-law, or by other authorised representatives of legal persons.
 - (3) Parties may retain advocates to provide legal assistance during the arbitration court procedure.
- [20 June 2001]*

Section 511. Costs of an Arbitration Court Procedure

- (1) Costs of an arbitration court procedure shall include costs relating to the examination of a dispute, as well as fees paid to an arbitrator.
- (2) The amount of costs of an arbitration court procedure, as well as the term and procedures for payment shall be determined by the arbitration court, taking into account the amount claimed, complexity of the dispute and provisions referred to in the arbitration court agreement.
- (3) An arbitration court, which has been established for the resolution of a specific dispute, shall determine the fees to be paid to an arbitrator after the appointment of the arbitrator provided that the parties have not specified otherwise in their agreement.

Section 512. Confidentiality of an Arbitration Court Procedure

- (1) Arbitration court sittings shall be closed. Persons, who are not participants in a matter, may be present at an arbitration court sitting only with the consent of the parties.
- (2) An arbitration court shall not provide to third persons or publish information concerning arbitration court proceedings.

Section 513. Initiation of an Arbitration Court Procedure

- (1) The proceedings in an arbitration court established for the resolution of a specific dispute, if the parties have agreed in the arbitration court agreement on the composition of the arbitration court, or in a permanent arbitration court shall begin from the time of submission of a statement of claim.
- (2) The proceedings of an arbitration court which has been established for the resolution of a specific dispute, if the parties have not agreed in the arbitration court agreement on the composition of the arbitration court, shall begin from the time of receipt by the defendant of a true copy of the statement of claim and of notification of the appointment of an arbitrator.

Section 514. Submission of a Statement of Claim

- (1) A statement of claim shall be submitted to an arbitration court in writing.
- (2) There shall be set out in the statement of claim:
 - 1) information concerning the parties:
 - a) for legal persons: their name and location (legal address) and, if known to the plaintiff, their registration number and telephone number; and
 - b) for natural persons: their given name, surname and place of residence and, if known to the plaintiff, their personal identity code and telephone number;
 - 2) the subject-matter of the claim, the amount claimed and the calculation of the amount claimed;

- 3) the grounds for the claim and evidence in proof thereof;
 - 4) the claims of the plaintiff; and
 - 5) a list of accompanying documents.
- (3) A statement of claim shall be accompanied by:
- 1) the agreement of the parties regarding the arbitration court unless such agreement is contained in an agreement in connection with which the dispute has arisen;
 - 2) the agreement in connection with which the dispute has arisen;
 - 3) the documents referred to by the plaintiff in the statement of claim; and
 - 4) evidence that the statement of claim has been sent to the defendant.

Section 515. Response to a Claim

- (1) A defendant shall submit a response to a claim within the time period specified by the parties or by the arbitration court. The time period for the submission of the response may not be shorter than 15 days, counting from the day of the sending of the request for a response to the claim.
- (2) The response to a claim shall indicate:
- 1) whether he or she admits the claim in full or a part thereof;
 - 2) his or her objections to the claim and the justification thereof;
 - 3) evidence, which certify his or her objections to the claim and the justification thereof, as well as the law upon which they are based;
 - 4) requests for the acceptance or request thereof of evidence; and
 - 5) other circumstances, which he or she considers to be important in the examination of the matter.

[17 February 2005]

Section 516. Counterclaim

- (1) Parties may freely agree as to procedures regarding submission of a counterclaim, if the subject of the counterclaim is included in an arbitration court agreement.
- (2) If parties have agreed to refer a dispute for resolution to a permanent arbitration court, but have not agreed on the procedures regarding submission of a counterclaim, these shall be determined by rules of procedure of the permanent arbitration court.
- (3) If a dispute is being resolved by an arbitration court established for the resolution of the specific dispute and the parties have not agreed on the procedures regarding submission of a counterclaim, the defendant has the right to submit a counterclaim not later than the expiry of the time period set for the submission of a response.

Section 517. Amendment and Supplementation of a Claim

Unless otherwise agreed by the parties, a party may amend or supplement a claim during all of the time of the arbitration court procedure, until the resolution of the dispute is commenced.

Section 518. Resolution of a Dispute by an Arbitration Court

- (1) An arbitration court, observing the arbitration court agreement entered into by parties, shall hold sittings to hear the explanations and objections of the parties and to examine evidence (oral procedure) or shall resolve a dispute on the basis of the written evidence and submitted materials only (written procedure). The arbitration court shall also organise oral procedure where the parties

have agreed on written procedure, but one of the parties, up until the making of the decision, requests oral procedure.

(2) An arbitration court shall in good time notify parties of an arbitration court sitting. The notification of the first arbitration court sitting shall be sent to the participants in the matter not later than 15 days prior to the sitting if the parties have not agreed to a shorter time period.

(3) An arbitration court shall acquaint the parties with any submissions, documents and other information, which it has obtained, as well as with expert opinions and other evidence.

(4) In accordance with the procedures of the rules of procedure of a permanent arbitration court, a decision may be taken regarding the deferment of the resolution of the dispute and other issues without adjudicating the matter according to substance.

[17 February 2005]

Section 519. Correspondence

(1) During an arbitration procedure all notifications, applications and other forms of correspondence shall be sent by registered mail or in another manner, recording the fact of it being sent, or shall be delivered to the addressee personally to be signed.

(2) Correspondence shall be considered as received, if it is delivered to the addressee personally, or pursuant to the mailing address indicated by the addressee, or to the location (legal address) of a legal person, or to the place of residence of a natural person, but if the address cannot be determined, to the last known address.

Section 520. Consequences, if Parties do not Participate in the Arbitration Procedure

(1) If a defendant does not submit a response to a claim in accordance with Section 515 of this Law, an arbitration court shall continue the procedure without considering such failure to submit as recognition of the claim, unless provided otherwise by the arbitration court agreement.

(2) If parties, without justified cause, fail to attend a viva voce sitting or to submit written evidence, an arbitration court shall continue the procedure and resolve the dispute on the basis of the evidence at its disposal.

Section 521. Evidence

(1) Evidentiary means in an arbitration court may consist of clarifications by the parties, written evidence, real evidence or expert opinions.

(2) Evidence shall be submitted by the parties. Each party shall evidence the facts to which they refer as a basis for their claims and objections. An arbitration court may require the parties to submit supplementary documents or other evidence.

(3) Documentary evidence shall be submitted in the form of an original or of a true copy. If a party submits a true copy of a document, an arbitration court may itself, or pursuant to the request of the other party, require that the original document be submitted. The arbitration court shall return an original document, pursuant to the request of the person who has submitted such document, leaving a certified true copy of it in the materials of the procedure.

(4) An arbitration court itself shall determine the admissibility and eligibility of evidence.

[17 February 2005]

Section 522. Expert-examination

(1) Unless the arbitration court agreement provides otherwise, an arbitration court, at the request of a party, may order an expert-examination and invite one or several experts. An expert-examination shall be occur only if the party has previously paid for the services of the expert.

(2) Parties, pursuant to the requirement of the arbitration court, shall submit necessary information or documents and present goods or other articles to an expert.

(3) Pursuant to the request of a party, an arbitration court shall summon an expert, following the giving of an opinion, to participate in an arbitration court sitting in order to provide explanations and answer questions of the parties concerning the opinion.

(4) An arbitration court shall determine the procedures regarding distribution between parties of the costs of expert services.

[17 February 2005]

Section 523. Security for a Claim [17 February 2005]

Section 524. Procedural Consequences of Withdrawal by a Party

(1) The fact that a natural person who is a party dies or a legal person who is a party has ceases to exist, shall not of itself terminate an arbitration court agreement if it is not otherwise agreed to by the parties and the disputed legal relations allow the taking over of rights.

(2) In such case the arbitration court shall stay the arbitration court proceeding until the successor in rights is determined.

(3) Cession of a claim or assignment of a debt may be the basis for termination of an arbitration court proceeding only in those cases where the arbitration court agreement is cancelled in accordance with the procedures stipulated by law or by the agreement.

Section 525. Rights to Object

(1) If any of the provisions of the arbitration court procedure has been breached or has not been complied with, a party who is participating in the arbitration court proceeding, as soon as such breach has come or ought to have come to their knowledge, shall without delay submit objections in writing to the arbitration court and to the other party.

(2) The arbitration court shall decide if the objections are well-founded.

(3) If a party does not submit objections, it shall be deemed that the party has waived the right to raise such objections.

Section 526. Minutes

(1) Minutes of an arbitration court sitting shall be taken only if any of the parties requests it and has paid in remuneration for secretarial services to the arbitration court.

(2) The minutes shall be taken by the secretary chosen by the arbitration court.

(3) The minutes shall be signed by all the arbitrators and the secretary. The parties have the right to acquaint themselves with the minutes and within a period of five days after the signing thereof submit in writing comments or objections regarding the minutes. The validity of grounds for objections or the conformity of comments to what has occurred at the sitting shall be decided by the arbitration court.

[17 February 2005]

Section 527. Storage of Procedure Documents after Completion of the Arbitration Court Procedure

(1) If a dispute is resolved by a permanent arbitration court, proceedings documents shall remain in storage at the arbitration court for 10 years after the completion of the arbitration court proceedings. The arbitration court shall store the documents in accordance with the archival storage procedures provided for by law.

(2) If a dispute is resolved by an arbitration court which has been established for the resolution of the specific dispute, procedure documents shall be drawn up in such number of copies as enables their supply in one copy to each party after the completion of the arbitration court procedure.

[17 February 2005]

Chapter 65 Awards by an Arbitration Court

Section 528. Making of Awards by an Arbitration Court

(1) All awards (decisions and judgments) in an arbitration court, if it consists of more than one arbitrator, shall be made by a majority vote.

(2) An award of an arbitration court shall come into effect on the day it is made. It may not be appealed and a protest regarding it may not be submitted.

Section 529. Settlement

(1) If parties during an arbitration court procedure enter into a settlement, the arbitration court procedure shall be terminated.

(2) Parties shall enter into a settlement in writing and set out therein: for legal persons, their name, registration number and location (legal address) and for natural persons, their given name, surname, personal identity number and place of residence, as well as the subject-matter of the dispute and the obligations of each of the parties as they have voluntarily undertaken to perform.

(3) Pursuant to the request of the parties, an arbitration court, by its decision, shall confirm a settlement provided that the provisions thereof are not contrary to law. Such decision shall have the same legal effect as arbitration court judgments.

[17 February 2005]

Section 530. Arbitration Court Judgments

(1) A judgment of an arbitration court shall be made in writing and it shall be signed by the arbitrators. If the arbitration court consists of several arbitrators, the judgment shall be signed by all the arbitrators, but if any of the arbitrators does not sign the judgment, there shall be set out in the arbitration court judgment the reasons why his or her signature is missing.

(2) There shall be set out in the judgment:

1) the composition of the arbitration court;

2) the time and place of the rendering of the judgment;

3) information concerning the parties;

4) the subject of the dispute;

5) the reasons for judgment unless otherwise agreed by the parties;

6) the conclusion regarding complete or partial satisfaction of the claim, or the complete or partial dismissal thereof, and the substance of the arbitration court judgement;

- 7) the amount to be recovered, if the judgment is rendered regarding recovery of money;
 - 8) the specific property and the value thereof, which is to be recovered in the event the property does not exist, if the judgment is rendered regarding recovery of property in specie;
 - 9) by whom, what and within what time period actions are to be fulfilled, if the judgment imposes a duty to fulfil certain actions;
 - 10) what part of the judgment refers to each plaintiff, if the judgment is made for the benefit of more than one plaintiff or what part of the judgment is to be fulfilled by each of the defendants, if the judgment is made against more than one defendant; and
 - 11) the costs of the arbitration court procedure and the allocation of such costs and the costs of legal assistance among the parties.
- (3) A true copy of the arbitration court judgment shall be sent to the parties. In the case of written proceedings, the true copy of the arbitration court judgment shall be sent to the parties within a period of three days.
- (4) Until the execution of the judgment each party, notifying the other party thereof, may request an arbitration court to:
- 1) correct any calculation, grammatical or printing error allowed to take place in the judgment. The arbitration court may also correct such errors on its own initiative;
 - 2) explain the judgment. The explanation of the judgment from the time of its making shall become an integral part of the judgment; or
 - 3) make a supplementary judgment within 30 days from the day the judgment is sent, if any of the claims submitted until the making of the judgment has not been decided. If the arbitration court deems the request to be well founded, it shall decide such request by rendering a supplementary judgment.
- (5) The arbitration court shall decide whether the participation of the parties, in the deciding of such issue by the arbitration court, is necessary.

[17 February 2005]

Section 531. Procedures regarding Certification of Signatures of Arbitrators on an Award

In a permanent arbitration court the procedures regarding certification of signatures of arbitrators on an award shall be as determined by the rules of procedure of the permanent arbitration court, but in an arbitration court which has been established for the resolution of a specific dispute, prior to an award being issued, the signatures of the arbitrators shall be notarially certified.

Section 532. Termination of an Arbitration Court Proceeding

- (1) An arbitration court shall take a decision to terminate an arbitration court proceeding if:
 - 1) the plaintiff withdraws his or her claim and the defendant does not object thereto;
 - 2) the parties agree to terminate the dispute through settlement;
 - 3) the arbitration court agreement has, pursuant to procedures prescribed by law or by the agreement, ceased to be in effect;
 - 4) the arbitration court finds that the arbitration court does not have jurisdiction over the dispute; or
 - 5) a natural person who is one of the parties dies, or a legal person who is one of the parties ceases to exist, and the legal relations do not allow the taking over of rights or the parties have agreed that in such case the procedure is to be terminated.
- (2) If an arbitration court proceeding has been terminated for the reasons set out in Paragraph one, Clause 1 or 2 of this Section, a repeated bringing before an arbitration court or bringing before a

court of a dispute between the same parties, over the same subject and on the same basis shall not be permitted.

(3) If an arbitration court proceeding has been terminated for the reasons set out in Paragraph one, Clause 3 or 4 of this Section, or if a natural person who is one party dies, or a legal person who is one party ceases to exist, and the parties have agreed that in such case the arbitration court proceeding shall be terminated, the parties shall have the right to bring the matter before a court.

Chapter 66

Execution of Arbitration Court Awards

Section 533. Procedures regarding Execution of Arbitration Court Awards

(1) An award of an arbitration court is mandatory for the parties and shall be executed voluntarily by them within the time period stipulated in such award. For the voluntary execution of a judgment a time period not shorter than five days shall be determined.

(2) If an award of a permanent arbitration court is to be executed in Latvia and is not being executed voluntarily, the interested party is entitled to apply to the district (city) court according to the location of the permanent arbitration court with an application for issue of a writ of execution for compulsory execution of the permanent arbitration court award.

[17 February 2005]

Section 534. Submission of an Application for Compulsory Execution of an Arbitration Court Award

(1) An application for the issue of a writ of execution shall be accompanied by:

- 1) the award of the arbitration court;
- 2) a document which confirms the agreement in writing by the parties to refer a dispute for resolution to an arbitration court, or a true copy of it certified by a notary;
- 3) true copies of the application in conformity with the number of the remaining participants in the matter;
- 4) a document concerning payment of the State fees; and
- 5) a statement that certifies the declared place of residence of the natural person.

(2) The documents shall be submitted in the official language or together with a notarially certified translation into the official language.

(3) At the request of a party, the award of the arbitration court may be returned, substituting therefor a certified true copy.

[31 October 2002; 17 February 2005]

Section 534.¹ Sending of an Application to Participants in the Matter

(1) When a court has received an application regarding the issuing of a writ of execution, the application shall without delay be sent to the remaining participants in the matter by registered mail, determining a time period for the submission of written explanations, which is not less than 10 days and longer than 15 days from the day of the sending of the application.

(2) In the explanation the participants in the matter shall indicate:

- 1) whether he or she admits the application in full or a part thereof;
- 2) his or her objections to the application and the justification thereof;
- 3) evidence, which certify his or her objections and the justification thereof, as well as the law upon which they are based;

4) requests for the acceptance or request thereof of evidence; and
5) other circumstances, which he or she considers to be important in the examination of the application.

(3) The participant in the matter shall append to the explanation true copies thereof in conformity with the number of the remaining participants in the matter.

(4) After receipt of the explanation, the judge shall send the true copies thereof to the remaining participants in the matter.

(5) The non-submission of an explanation shall not be an obstacle for an examination of the issuing of a writ of execution.

[17 February 2005]

Section 535. Deciding on Applications regarding Compulsory Execution of an Award by an Arbitration Court

(1) A decision regarding the issue of a writ of execution or a reasoned refusal to issue such shall be taken by a judge on the basis of the submitted documents without summoning the parties, within a period of 10 days from the day when the time period for the submission of explanations has ended, but if the explanations have been sent to the remaining participants in the matter – within a period of 10 days from the day the explanations were sent. In taking a decision regarding the issue of a writ of execution, the judge shall also decide the issue whether the State fee for the issue of a writ of execution shall be compensated.

(2) A decision to issue a writ of execution shall come into effect without delay.

(3) An ancillary complaint may be submitted regarding a decision refusing the issue of a writ of execution within 10 days from the day the plaintiff receives a true copy of the decision.

[17 February 2005]

Section 536. Grounds for a Refusal to Issue a Writ of Execution

A judge shall refuse to issue a writ of execution, if:

1) the particular dispute may be resolved only by a court;

2) the arbitration court agreement has been entered into by a person lacking capacity to act;

3) the arbitration court agreement, pursuant to the law applying thereto, has been set aside or declared null and void;

4) the party was not notified of the arbitration court proceedings in the appropriate manner, or due to other reasons was unable to submit his or her explanations, and this significantly has or could have affected the arbitration court proceedings;

5) the party was not notified of the appointment of an arbitrator in the appropriate manner, and this significantly has or could have affected the arbitration court proceedings;

6) the arbitration court was not established or the arbitration court proceedings did not take place in accordance with the provisions of the arbitration court agreement or of Part D of this Law; or

7) the award of the arbitration court was made regarding a dispute which was not provided for in the arbitration court agreement or does not comply with the provisions of the arbitration court agreement, or also issues are decided in it as are not within the scope of the arbitration court agreement. In such case, the writ of execution may be issued for that part of the arbitration court award, which complies with the arbitration court agreement provided that it can be separated from the issues, which are not within the scope of the arbitration court agreement.

[17 February 2005]

Section 537. Consequences of Refusal to Issue a Writ of Execution

After a decision to refuse to issue a writ of execution has come into effect:

1) the dispute may be resolved in a court in accordance with general procedures, if issue of the writ of execution has been refused on the basis set out in Section 536, Clauses 1, 2, 3 and 7 of this Law; or

2) the dispute may be repeatedly referred for resolution to an arbitration court, if the issue of the writ of execution has been refused on the basis of Section 536, Clauses 4, 5 and 6 of this Law.

[17 February 2005]

Part E Execution of Court Judgments

Division Thirteen General Provisions Regarding Execution of Court Judgments

Chapter 67 Execution Documents

Section 538. Execution of Court Judgments and Decisions

Court judgments and decisions shall be executed after they come into lawful effect, except in cases where pursuant to law or a court judgment they are to be executed without delay. The indication that the judgment and decision shall be executed without delay must be contained in the writ of execution itself.

[31 October 2002]

Section 539. Adjudications of Courts and Other Institutions, which must be Executed

(1) In accordance with the procedures specified for the execution of court judgments by this Law, the following court adjudications, court decisions by judges or other institution adjudications shall be executed:

1) court judgments and decisions by a court or a judge in civil matters and in matters which arise out of administrative legal relations;

recovery;

3) in such part of decisions by a judge or a court in matters regarding administrative violations as pertains to financial recovery;

4) court decisions regarding approval of settlements;

5) awards by a permanent arbitration court;

6) adjudications by foreign courts or competent institutions and foreign arbitration courts in cases provided for by law;

7) court decisions regarding application of procedural sanctions - imposition of fines; and

8) decisions by labour disputes commissions.

(2) The following shall also be executed in accordance with the procedures specified for the execution of court judgments unless otherwise provided for by the law:

1) decisions by institutions and officials in administrative violations matters in cases provided for by law;

2) administrative acts directed to the payment of money issued by institutions and officials endowed with State authority; and

3) adjudications of persons belonging to the judicial system (notaries, advocates, bailiffs) regarding remuneration for work, remuneration for legal assistance provided and expenses related to services provided, and the State fee.

(3) In accordance with the procedures specified in section 142 of this Law, decisions of the competent institutions regarding forced execution of sanctions specified by international organisations shall be executed.

[31 October 2002; 12 February 2004; 7 April 2004; 17 February 2005; 7 September 2006; 26 October 2006]

Section 540. Execution Documents

Execution documents are:

1) writs of execution which are issued on the basis of court judgments or decisions by a court or a judge in civil matters and in matters which arise out of legal administrative relations and criminal matters, court decisions regarding approval of settlements, permanent arbitration court awards, decisions by a labour disputes commission and adjudications of foreign courts and foreign arbitration courts;

2) decisions by institutions and officials in administrative violations matters;

3) execution orders issued the basis of administrative acts (Section 539, Paragraph two, Clause 2 of this Law);

4) decisions by a judge regarding the carrying out of uncontested compulsory execution of obligations, compulsory execution of obligations in accordance with warning procedures or the voluntary sale at auction of immovable property through the court;

5) court decisions regarding application of procedural sanctions - imposition of a fine;

6) invoices issued by notaries, advocates and bailiffs;

7) European Enforcement Orders issued by foreign courts or competent institutions in accordance with Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (European Parliament and Council Regulation No. 805/2004);

8) certificates issued by foreign courts or competent institutions in accordance with Article 41, Paragraph 1 or Article 42, Paragraph 1 of Council Regulation No. 2201/2003; and

9) decisions by competent institutions regarding forced execution of sanctions specified by international organisations

[31 October 2002; 19 June 2003; 7 April 2004; 17 February 2005; 7 September 2006; 26 October 2006]

Section 541. Issuing of Writs of Execution

(1) A writ of execution shall be drawn up by a court of first instance or an appellate instance court after a judgment or a decision has come into lawful effect, but in cases where the judgment or the decision is to be executed without delay, immediately after the judgment is pronounced or the decision taken.

(2) If the execution of the court judgment specifies a time period for voluntary execution and the judgment has not been executed, a court shall issue the writ of execution after the termination of the time period for voluntary execution.

(3) A writ of execution shall be issued to a judgment creditor at their request by the court in which the matter is then found.

(4) If in accordance with a court judgment an amount of money is to be collected as State revenues, after the termination of the time period for voluntary execution a court shall send a writ of

execution to a bailiff according to the debtor's place of residence, if a natural person, or the location (legal address), if a legal person.

[31 October 2002; 17 February 2005]

Section 541.¹ European Union Execution Documents and the Issue of Documents Associated with Execution

(1) A court shall draw up a European Enforcement Order based upon European Parliament and Council Regulation No. 805/2004 on the basis of request from a judgment creditor when the judgment or decision has come into lawful effect, but in cases where the judgment or decision has to be executed without delay – immediately after the proclamation of the judgment or the taking of the decision.

(2) A court shall draw up the certificate referred to in Article 41, Paragraph 1 or Article 42, Paragraph 1 of Council Regulation No. 2201/2003, based upon the provisions of the regulation, on its own initiative or the request of a participant in the matter when the judgment or decision has come into lawful effect, but in cases where the judgment or decision has to be executed without delay – immediately after the proclamation of the judgment or the taking of the decision.

(3) The certificates referred to in Articles 54 and 58 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (hereinafter - Council Regulation No 44/2001) and Article 39 of Council Regulation No. 2201/2003, shall be drawn up by a court on its own initiative or the request of a participant in the matter.

(4) A court shall draw up the form referred to in Article 6, Paragraphs 2 and 3 of European Parliament and Council Regulation No. 805/2004 upon the request of a participant in the matter.

(5) The court in which the matter is located at the time shall issue the documents referred to in Paragraphs one, two, three and four of this Section.

(6) A court shall take a reasoned decision regarding a refusal to issue the documents referred to in Paragraphs one and two of this Section.

(7) An ancillary complaint may be submitted in respect of a refusal by a court to issue the documents referred to in Paragraphs one and two of this Section.

[7 September 2006]

Section 542. Issuing Several Writs of Execution for One Judgment

(1) One writ of execution shall be issued for each judgment.

(2) If execution of a judgment is to be carried out in several places, a judgment in a part thereof is to be executed without delay or a judgment has been made for the benefit of several plaintiffs or is directed against several defendants, a court shall, pursuant to the request of the judgment creditor, issue several writs of execution. Where several writs of execution are issued, there shall accurately be set out in each of them the place of execution or that part of the judgment under which such writ of execution is to be executed, but in cases of joint collection, also the defendant against whom recovery is directed under such writ of execution.

[31 October 2002]

Section 543. Contents of a Writ of Execution

(1) There shall be set out in a writ of execution:

- 1) the name of the court which has issued the writ of execution;
- 2) the matter in which the writ of execution has been issued;

-) the time when the adjudication was made;
 - 4) the operative part of the adjudication;
 - 5) the time when the adjudication comes into lawful effect, or an indication that the adjudication shall be executed without delay;
 - 6) when the writ of execution was issued; and
 - 7) information concerning the judgment creditor and the debtor: for natural persons, the given name, surname, personal identity number and place of residence, but for legal persons, the name, location (legal address) and registration number.
- (2) A writ of execution shall be signed by a judge and shall be confirmed with the seal of the court.
- (3) The contents of other execution documents shall be as prescribed by applicable laws.
- [31 October 2002]*

Section 543.¹ Rectification of Errors in European Union Execution Documents

- (1) A court, which has rendered a judgment or taken a decision, on the basis of a request by a participant in the matter may rectify errors in a European Enforcement Order, based upon Article 10 of European Parliament and Council Regulation No. 805/2004, or in the certificate referred to in Article 41, Paragraph 1 or Article 42, Paragraph 1 of Council Regulation No. 2201/2003, based upon Council Regulation No. 2201/2003.
- (2) In submitting an application for the rectifying of a European Enforcement Order, the form referred to in Article 10, Paragraph 3 of European Parliament and Council Regulation No. 805/2004 shall be utilised.
- (3) The issue of rectification of errors shall be adjudicated in a court sitting, previously notifying the participants in the matter regarding this. The non-attendance of such persons shall not be an obstacle to adjudicate the issue.
- (4) The execution document errors referred to in Paragraph one of this Section shall be rectified by a court decision.
- (5) An ancillary complaint may be submitted in respect of a decision by a court to the rectification of errors made in execution documents.
- [7 September 2006]*

Section 544. Issuing a Duplicate Copy of a Writ of Execution

- (1) If a writ of execution has been lost, stolen or destroyed, the court which has made the adjudication, pursuant to the application of the judgment creditor, or if this has occurred during the process of execution of the judgment, pursuant to the application of the bailiff, may issue a duplicate copy of the writ of execution. There shall be set out in the application the facts in which the document was lost, stolen or destroyed.
- (2) An application for the issue of a duplicate copy shall be adjudicated in a court sitting, upon prior notice to the judgment creditor and the debtor thereof. The failure of such persons to attend shall not impede the adjudication of the application for the issue of the duplicate copy of the writ of execution.
- (3) In making a decision to issue a duplicate copy of a writ of execution, a court shall at the same time declare the lost, stolen or destroyed writ of execution to have ceased to be in effect, and exempt the judgment creditor from the payment of office fees if it is not determined that the judgment creditor is at fault for the loss, destruction or theft of the writ of execution.
- (4) An ancillary complaint may be submitted regarding the court decision.

(5) The duplicate copy of the writ of execution shall be issued to the judgment creditor after the decision has come into effect and office fees have been paid, unless the judgment creditor has been exempted therefrom.

[31 October 2002]

Section 544.¹ Compulsory Execution of Decisions by Labour Disputes Commissions

(1) An application submitted to the court regarding issuing of a writ of execution shall be appended by a decision of a labour disputes commission.

(2) A decision regarding issuing of a writ of execution or a reasoned refusal to issue such shall be taken by a judge sitting alone on the basis of the submitted application and the decision of the labour disputes commission appended thereto within a period of three days from the day the application was submitted, without summoning the parties.

(3) The decision regarding issuing of a writ of execution shall come into effect without delay.

(4) An ancillary complaint may be submitted regarding a decision to refuse issuing of a writ of execution within a period of 10 days from the day the plaintiff received a true copy of the decision.

(5) The court shall refuse issuing of a writ of execution if it finds that in accordance with law the specific dispute may only be resolved at court.

[31 October 2002]

Section 545. Liability for Storage of an Execution Document

A court may impose a fine not exceeding one hundred lats on an official who has failed to ensure the storage of an execution document deposited with him or her.

Section 545.¹ Withdrawal of European Enforcement Orders

(1) A court, which has rendered a judgment or taken a decision after receipt of an application from a participant in the matter, utilising the form referred to in Article 10, Paragraph 3 of European Parliament and Council Regulation No. 805/2004, may withdraw a European Enforcement Order, based upon Article 10 of European Parliament and Council Regulation No. 805/2004.

(2) An application for the withdrawal of a European Enforcement Order shall be adjudicated in a court sitting, previously notifying the participants in the matter regarding this. The non-attendance of such persons shall not be an obstacle to adjudicate the issue.

(3) An ancillary complaint may be submitted in respect of a decision by a court.

[7 September 2006]

Section 546. Time Periods for Submission of Execution Documents for their Execution

(1) Execution documents may be submitted for compulsory execution within 10 years from the day when an adjudication by a court or a judge comes into effect, provided that other limitation periods are not provided for by law.

(2) Where periodic payments are recovered as a result of a court judgment, the execution document shall remain in effect for the whole period during which the periodic payments have been adjudged, but the running of the time period provided for by Paragraph one of this Section shall begin from the final day for each payment.

(3) Time periods within which other execution documents specified in Section 540 of this Law shall be submitted for execution shall be prescribed by applicable laws.

[31 October 2002]

Section 547. Suspension of Limitation Periods for Submission of Execution Documents

(1) A limitation period shall be suspended upon an execution document being submitted for execution. The limitation period shall also be suspended by partial voluntary execution of an adjudication.

(2) After suspension, the running of the limitation period shall begin anew, excluding the time period elapsed. If complete recovery has not been made pursuant to the execution document and the document has been returned to the judgment creditor, a new time period for submission of the document shall be calculated from the day when it has been provided to the judgment creditor.

[31 October 2002]

Chapter 68 Status of a Bailiff

Section 548. Bailiff

(1) Adjudications by a court and other adjudications set out in Section 539 of this Law shall be executed by a bailiff.

(2) Supervision of bailiff's activities shall be performed in accordance with the procedures set out by this Law and the Law on Bailiffs.

[31 October 2002]

Section 549. General Provisions regarding the Work of Bailiffs

(1) A bailiff shall, pursuant to an application in writing by a judgment creditor and in cases set out in law pursuant to the initiative of the Latvian Council of Sworn Bailiffs, competent institutions or a court, commence execution activities on the basis of an execution document.

(2) A bailiff must accept for execution the execution document if the place of residence of the debtor (for legal persons — legal address), location of his or her property or workplace is located within the specified borders (district) of the official appointment location of the bailiff, as well as in the case referred to in Paragraph 2¹ of this Section. A bailiff may also accept other execution documents, which are to be executed within the operational territory of the regional court to which the bailiff is attached.

(2¹) A bailiff shall accept for execution a decision by an institution regarding forced execution of sanctions specified by international organisations, and the amount of the official remuneration rates and the performance of execution activities necessary expenditures shall be covered from State budget funds according to the procedures determined by the Cabinet.

(3) A bailiff shall perform execution of judgments outside the boundaries of his or her district, as well as in relation to debtors whose place of residence (for legal persons — legal address) is another district in communication with the bailiff of the relevant district in accordance with the procedures, which are determined by the Cabinet.

(4) The execution of a judgment on Sundays and holidays is permitted only in cases of emergency.

(5) Execution of a judgment between 24:00 and 6:00 o'clock is not permitted.

(6) Judgment creditors and debtors have the right to be present during execution activities, inviting not more than two witnesses, and to obtain information concerning the execution of the judgment.

(7) The bailiff pursuant to his or her own initiative or at the request of the interested party, by taking a relevant decision, may correct clerical mistakes in the procedural documents drawn up in the execution matters within his or her management. Prior to correction of mistakes he or she shall

request a reference from the persons who participated in the drawing up of the statement. Obvious mistakes may be corrected without requesting a reference. The decision by the bailiff in accordance with which mistakes are corrected shall have no consequences in respect of persons whose rights or duties arise from the procedural document.

[31 October 2002; 19 June 2003; 7 September 2006; 26 October 2006]

Section 550. Withdrawal or Removal of a Bailiff

(1) A bailiff is prohibited from performing execution activities in matters, where one of the parties is the bailiff himself or herself, his or her spouse, including former spouse, his or her or his or her spouse's kin in a direct line of all degrees, collateral kin — to the fourth degree and in affinity relations — to the third degree, as well as persons under guardianship and trusteeship of the bailiff or his or her spouse or adopters of adoptees of the bailiff or his or her spouse.

(2) Removal of a bailiff, by submitting a written application to him or her, may be applied for by a judgment creditor or a debtor if there are facts, which cause well-founded doubt regarding the objectivity of the bailiff. The bailiff shall adjudicate the application without delay. A decision by which the application has been left without satisfaction may be appealed to the district (city) court according to the official appointment location of the bailiff. Submission of a complaint shall not stay execution activities.

(3) An ancillary complaint may be submitted regarding a court decision to refuse removal of a bailiff.

(4) If a bailiff has withdrawn himself or herself or has been removed, he or she shall transfer execution document for execution to another bailiff in accordance with the procedures prescribed by the Latvian Council of Sworn Bailiffs.

[31 October 2002]

Section 551. Mandatory Nature of a Bailiff's Requirements or Orders

(1) Requirements and orders by a bailiff, when executing court judgments and other adjudications, are mandatory for all natural or legal persons throughout the territory of the State.

(2) If a bailiff's requirements or orders are not executed, the bailiff shall draw up a statement and submit it to a court to decide the issue regarding liability. The court may impose a fine on persons at fault — for a natural person up to two hundred and fifty lats, but for an official up to five hundred lats.

(3) A court may impose a fine not exceeding one hundred lats on a person (employer) who pursuant to a court adjudication was required to deduct means of support for the maintenance of children and who within the time period prescribed by law has not notified the bailiff and the receiver of the means of support, of the dismissal from employment of the payer of the means of support and of his or her new place of work or residence, if such person had knowledge thereof.

(4) If, in a judgment being executed, resistance is shown, a bailiff shall, in the presence of invited persons, but if is not possible to invite persons – singly, draw up a statement in respect of this, and in order to eliminate impedance apply for assistance to the police. The statement shall be submitted to the court for it to decide the issue regarding the liability of those persons who have resisted the execution of the judgment.

(5) If the judgment creditor or the debtor refuses to sign the statement drawn up by the bailiff, a notation in respect of that shall be made in the drawn up statement, specifying the reasons for the refusal. Refusal to sign the statement drawn up by the bailiff shall not affect the effect of the statement.

[31 October 2002; 19 June 2003]

Section 552. Duties of Debtors and Consequences for Failing to Fulfil Them

- (1) A debtor, pursuant to a summons, shall attend before a bailiff and provide explanations regarding his or her financial situation and place of work.
- (2) A debtor shall notify a bailiff of a change of place of work or of residence during execution of the adjudication, as well as of additional sources of income.
- (3) If a debtor does not appear before a bailiff pursuant to a summons, refuses to furnish explanations or does not provide the information prescribed by law, the bailiff may apply to a court for it to decide the issue regarding the liability of such person. The court may take a decision regarding the forced conveyance of the debtor, and impose upon a natural person a fine not exceeding fifty lats, but upon an official – not exceeding two hundred and fifty lats.
- (4) If it is determined that a debtor has knowingly provided false information, a bailiff shall apply to a court for it to decide the issue regarding the initiation of an administrative violation matter or criminal matter.

[31 October 2002; 19 June 2003]

Chapter 69 General Provisions regarding Execution Proceedings

Section 552.¹ Initiation of Execution Matters

- (1) A bailiff shall initiate a separate execution matter for each execution document received.
- (2) If an execution document is not formalised in accordance with procedures set out by law, State fees or other execution of judgment expenditures have not been paid, the bailiff shall set a time period for rectification of deficiencies which shall not be less than 10 days.
- (3) If deficiencies are rectified within the time period specified, an execution matter shall be initiated and the execution document shall be deemed to have been submitted on the date when it was first submitted to the bailiff.
- (4) If the judgment creditor fails to rectify deficiencies within the time period specified, the execution document shall be deemed not to have been submitted and it shall be returned to the judgment creditor.
- (5) Returning of the execution document to the judgment creditor is not an impediment for its repeated submission to the bailiff, in compliance with the procedures for submission of execution documents prescribed by law.

[31 October 2002]

Section 553. Explanation of a Court Adjudication to be Executed

If the court adjudication to be executed is not clear, a bailiff is entitled to request the court which has made the adjudication, to explain it. Explanation of the adjudication shall take place in accordance with the procedure specified in Section 202 or 437 of this Law.

[31 October 2002]

Section 554. Postponement, Division into Time Periods, Varying the Form and Procedure of Execution of a Judgment

(1) If there are facts which make the execution of a court judgment difficult or impossible, a bailiff is entitled to submit a proposal for the postponement, division into time periods, varying the form and procedure of execution of the judgment to the court which made the judgment in the matter.

(2) An application by the bailiff regarding the postponement, division into time periods, varying the form and procedure of execution of the judgment shall be adjudicated by the court in accordance with the procedures laid down in Section 206 or 438 of this Law.

[31 October 2002]

Section 555. Proposal to Voluntarily Execute an Adjudication

(1) A bailiff, when about to commence execution, shall notify the debtor by sending or issuing a proposal regarding a duty to execute the adjudication voluntarily within 10 days. If the adjudication is to be executed without delay, the time period for voluntary execution of not less than three days shall be set. In matters regarding the recovery of remuneration for work, renewal of the employment (position), compensation for mutilation or other damage to health, as well as recovery of means of support in relation to the death of a person whose duty was to support somebody, a proposal to voluntarily execute a judgment shall not be sent.

(2) If the debtor is a natural person, the bailiff shall send the proposal to the debtor by registered mail to his or her last known place of residence or issue it to the debtor in person for which the debtor shall sign. If the bailiff does not meet the debtor at their place of residence, the bailiff shall give the proposal to an adult family member residing with the debtor.

(3) If the place of residence of the debtor – a natural person – is not known, the proposal to voluntarily execute the adjudication shall be published in the newspaper *Latvijas Vēstnesis*.

(4) If the debtor is a legal person, the bailiff shall send the proposal by registered mail to the location of the debtor or the legal address if the location of the debtor is unknown or issue it in person to a representative of the executive body of the debtor for which he or she shall sign.

(5) If the debtor or a representative of the executive body of the debtor refuses to accept or sign the proposal, the bailiff or the server of the proposal shall draw up a statement in respect of that in the presence of two invited persons. Refusal to accept or sign the proposal is not an impediment for compulsory execution of the adjudication.

(6) If the proposal has been served in accordance with the procedures set out in this Section, it shall be presumed that the debtor has been notified of the time period for voluntary execution of the adjudication.

(7) Simultaneously with the issuing of the proposal for voluntary execution, the bailiff may:

1) request that the debtor declare his or her financial situation and changes therein during the last year, warning the debtor regarding criminal liability;

2) attach debtor's property, including attachment of monies and deposits in credit institutions, monies due from other persons or property which is located with other persons; or

3) notify the Land Registry Office of recovery for the making of an entry in the Land Register regarding recovery or notify another public register for the entering of an alienation or other activity prohibition.

[31 October 2002; 19 June 2003]

Section 556. Compulsory Execution of a Court Judgment

Compulsory execution of a court judgment shall be carried out after the expiry of the time period provided for in Section 555 of this Law for voluntary execution of a court judgment.

Section 557. Compulsory Execution Measures

Compulsory execution measures are:

- 1) recovery directed against the movable property of a debtor, including the property in the possession of other persons and intangible property, by sale thereof;
- 2) recovery directed against money due to the debtor from other persons (remuneration for work, payments equivalent thereto, other income of the debtor, deposits in credit institutions);
- 3) recovery directed against the immovable property of the debtor, by sale thereof;
- 4) transfer of the property adjudged by the court to the judgment creditor and performance of activities imposed by a court judgment;
- 5) eviction of persons and removing of property specified in the judgment from premises;
- 6) placing in possession; and
- 7) other measures as set out in a judgment.

[31 October 2002]

Section 558. Inspection of Premises of a Debtor

(1) A bailiff is entitled, where it is necessary to carry out execution, to carry out inspection of the premises or storage-places of a debtor. If the debtor does not participate in the inspection of such premises or storage-places, it shall be carried out in the presence of invited persons.

(2) If a debtor refuses to allow a bailiff entry into premises the debtor is in occupation of or the place where property is located, or refuses to open a storage-place, the bailiff shall invite a police representative, in the presence of whom the premises or the storage-places shall be opened and the inspection thereof conducted.

(3) If the manager of immovable property owned by the debtor during compulsory execution of an adjudication avoids or refuses to allow a bailiff entry into the immovable property and the manager has been notified of the time of inspection of the immovable property in writing at least five days in advance, the bailiff may conduct inspection of the immovable property in the presence of a police representative without participation of the manager.

[31 October 2002; 19 June 2003]

Section 559. Postponement of Execution Activities

(1) A bailiff shall postpone execution activities on the basis of an application by a judgment creditor or of a decision by a court or a judge regarding postponement of execution activities or stay of sale of property taken in accordance with Section 138, Paragraph one, Clause 7 of this Law or a court decision regarding the postponement of the execution of the judgment or the dividing thereof into time periods, which has been taken in accordance with Section 206, 438 or 644.¹ of this Law.

(2) A bailiff may postpone an execution activity on the basis of a court decision regarding the execution replacement of a foreign court or competent institution adjudication (which is approved as a European Enforcement Order) by the measures provided for in Section 138 of this Law for ensuring the execution of such adjudication (Section 644.²).

(3) A bailiff shall notify a judgment creditor and a debtor of the postponement of execution activities if it is not possible to be performed due to technical or other reasons independent of the bailiff.

[31 October 2002; 19 June 2003; 7 September 2006]

Section 560. Duty of a Bailiff to Stay Execution Proceedings

(1) A bailiff shall stay execution proceedings if:

1) a natural person who is a debtor or a judgment creditor dies or the legal person who is a debtor ceases to exist, and the legal relations established by the court allow the taking over of rights;

2) the debtor has lost the capacity to act;

3) the Senate in the assignments sitting has taken a decision to stay execution of the judgment;

4) execution of a decision by an institution or an official shall be stayed in accordance with the law or a court adjudication;

5) a court or a judge has taken a decision to stay compulsory execution of obligations (Sections 406 and 406.¹⁰); or

6) a court has taken a decision regarding the suspension of the execution of a foreign court or competent institution adjudication (which is approved as a European Enforcement Order) (Section 644.²).

(2) If there is a decision taken in accordance with the procedures prescribed by law to privatise an undertaking or company, execution proceedings, pursuant to the request of the institution carrying out the privatisation, shall be stayed except for execution proceedings regarding compensation for losses in the event of an occupational accident or disease.

[31 October 2002; 7 September 2006]

Section 561. Right of a Bailiff to Stay Execution Proceedings

A bailiff may stay execution proceedings if:

1) the debtor is placed in a medical treatment institution and this impedes the carrying out of execution activities;

2) a complaint is submitted regarding the actions of the bailiff; or

3) *[31 October 2002]*

4) *[14 December 2006]*

[31 October 2002; 19 June 2003; 14 December 2006]

Section 562. Duration of Stay of Execution Proceedings

(1) Execution proceedings shall be stayed:

1) in cases provided for in Section 560, Paragraph one, Clause 1 of this Law, until the determination of the successor in rights of the debtor or judgment creditor;

2) in cases provided for in Section 560, Paragraph one, Clause 2 of this Law, until the appointment of a trustee for the debtor lacking capacity to act;

3) in cases provided for in Section 560, Paragraph one, Clauses 3, 5 and 6 of this Law, until the time set out in the court decision, or until such decision is set aside;

4) *[19 June 2003]*

5) in cases provided for in Section 560, Paragraph one, Clause 4 of this Law, until the time when in accordance with law the stay terminates or the time specified in the court adjudication or until such adjudication is set aside;

6) in cases provided for in Section 560, Paragraph two of this Law, until the determination of the successor in rights of the debtor and transfer of the undertaking to such successor, or the making of amendments to the basic documents of the company in the Enterprise Register;

7) in the case provided for in Section 561, Clauses 1 of this Law, until the time when the facts mentioned in this Clause have ceased; and

8) in cases provided for in Section 561, Clause 2 of this Law, until the time when the court judgment or decision in connection with the complaint comes into lawful effect.

9) [19 June 2003]

(2) During the time when the execution proceedings are stayed the bailiff shall not perform compulsory execution activities.

(3) Execution proceedings shall be resumed pursuant to the application of a judgment creditor or the initiative of a bailiff.

[31 October 2002; 19 June 2003; 7 September 2006; 14 December 2006]

Section 563. Termination of Execution Proceedings

(1) Execution proceedings, pursuant to the request of an interested party, shall be terminated if:

1) the judgment creditor has waived recovery and the court has taken an appropriate decision on it;

2) a settlement between the judgment creditor and the debtor confirmed by the court has been submitted;

3) the claim or duty is not capable of passing to a successor in rights after the death of such natural person or the cessation of such legal person as was a judgment creditor or a debtor;

4) the limitation period prescribed by law for this form of recovery has expired;

5) the adjudication of the court or the decision of the relevant institution or official, on the basis of which the execution document has been issued, is set aside;

6) the time period for submission of an appellate or ancillary complaint regarding a court adjudication, on the basis of which the execution document has been issued, is renewed;

7) the execution of such a foreign court or competent institution adjudication, which has been approved as a European Enforcement Order in accordance with European Parliament and Council Regulation No. 805/2004 or regarding which a certificate referred to in Article 41, Paragraph 1 or Article 42, Paragraph 1 of Council Regulation No. 2201/2003 (Section 644.³); or

8) a foreign court or competent institution recalls the issued European Enforcement Order in accordance with European Parliament and Council Regulation No. 805/2004.

(2) Execution proceedings regarding recovery from undertakings or companies of the monetary amount adjudged shall be terminated pursuant to the application of an administrator, if the debtor in accordance with the procedure prescribed by law is declared to be insolvent. In such case the bailiff shall complete the commenced sale of property if such has already been announced or if the property has been transferred to a trading undertaking for sale. From the money received from sale the bailiff shall deduct execution of a judgment expenditures and transfer the remaining money to the administrator of the insolvent undertaking. The bailiff shall notify the storer of the property of the duty to transfer to the administrator the property the sale of which has not been commenced.

(3) In cases provided for by Paragraph one, Clauses 3 and 4 of this Section, a bailiff may also terminate execution proceedings pursuant to his or her own initiative.

(4) If execution proceedings are terminated, subsequent to covering of execution of a judgment expenditures all compulsory execution measures taken by the bailiff shall be cancelled.

- (5) Terminated execution proceedings may not be recommenced.
- (6) If a foreign court or competent institution rectifies a European Enforcement Order, which is issued based upon European Parliament and Council Regulation No. 805/2004, the revoked part of execution of the adjudication shall be terminated and execution continued in conformity with the rectified European Enforcement Order.
- [31 October 2002; 7 September 2006]*

Section 564. Procedures regarding Stay of Execution Proceedings, Suspension of Execution Record-keeping, Resumption or Termination of Execution Proceedings

- (1) The bailiff in whose record-keeping the execution document is located shall decide as to stay of execution proceedings, suspension of execution record-keeping, resumption or termination of execution proceedings.
- (2) A bailiff shall take the decision up to the activity to be stayed or executed, but not later than within a period of three days from the day of receipt of the submission.
- (3) A bailiff shall notify the decision to the judgment creditor, debtor and the relevant third person that has submitted the petition within a period of three days after the taking of the decision.
- [31 October 2002; 19 June 2003]*

Section 565. Returning of an Execution Document to a Judgment Creditor

- (1) An execution document pursuant to which recovery has not been carried out or has been incompletely carried out shall be returned to the judgment creditor:
- 1) pursuant to an application of the judgment creditor;
 - 2) if the debtor does not have any property or income against which recovery may be directed;
 - 3) if the judgment creditor has refused to receive the articles removed from the debtor which are set out in the court judgment;
 - 4) if the debtor does not live or work at the address indicated by the judgment creditor or property of the debtor is not located there;
 - 5) if a judgment creditor who is not exempted from payment of the costs relating to the execution of the judgment, has not paid such costs; or
 - 6) if through application of the compulsory execution measure specified by the judgment creditor it is not possible to execute the judgment and upon an invitation he or she has failed to notify application of another compulsory execution measure.
- (2) In cases referred to in Paragraph one, Clauses 2, 3 and 4 of this Section, a bailiff shall draw up an appropriate statement.
- (3) When issuing the execution document to the judgment creditor, the bailiff shall cancel all compulsory execution measures taken.
- (4) The return of an execution document to a judgment creditor is not an impediment to the new submission of such document for execution within the time period provided for by law.
- (5) The bailiff shall issue the execution document according to which execution in State revenue is to be performed to the State Revenue Service.
- (6) An execution order of the Means of Support Guarantee Fund administration regarding the recovery of unjustifiably paid out amount of means of support from a submitter shall not be issued back to the judgment creditor. If the means of support judgment creditor has received a statement from a bailiff regarding the impossibility of recovery of the means of support or partial recovery, the execution document shall be issued to judgment creditor only after a certification has been received from the Means of Support Guarantee Fund administration regarding the non-existence of

the claim. The bailiff has a duty to not less than once every half-year conduct an examination of the property and income of the debtor.

[31 October 2002; 19 June 2003; 17 June 2004]

Section 566. Execution of a Judgment Expenditures

(1) Execution of a judgment expenditures shall include the State fee and expenditures related to the execution of court judgments (Section 39): remuneration for the bailiff according to the tariff and expenditures required for the performance of execution activities.

They are as follows:

- 1) expenditures associated with the delivery and issue of summonses and other documents;
- 2) expenditures relating to the receipt of necessary information in a matter for execution;
- 3) expenditures relating to bank and other institution services;
- 4) expenditures relating to the storage, transport or destruction of the property of the debtor;
- 5) travel costs to the place of execution of the judgment;
- 6) payment to experts;
- 7) payment for the publication of advertisements regarding auction of property, invitations and other necessary advertising during the course of execution; and
- 8) other necessary expenditures for the performance of compulsory execution activities.

(2) In determining the expenditures associated with the securing of claims, safeguarding of estates and drawing up of inventory lists (Section 39), the provisions regarding execution of a judgment expenditures shall be applied insofar as such activities have been performed by a bailiff.

[20 June 2001; 31 October 2002]

Section 567. Procedures regarding Payment of Execution of a Judgment Expenditures during Execution Process

(1) A judgment creditor, when submitting an execution document for execution, shall indicate a compulsory execution measure in compliance with provisions of Sections 570 and 572 of this Law, pay the State fee and cover other execution of the judgment expenditures to the extent required for commencement of the execution in the manner indicated by the judgment creditor. During execution of the judgment the judgment creditor pursuant to bailiff's instructions shall pay additionally required execution of the judgment expenditures. In the cases specified by law during execution of the judgment the execution of the judgment expenditures for separate procedural actions shall be paid by the debtor.

(2) Judgment creditors shall be exempt from payment of execution of the judgment expenditures to the bailiff:

- 1) in regard to claims regarding recovery of remuneration for work and other claims arising from legal employment or service relations or related to such;
- 2) in regard to claims arising from personal injuries that result in mutilation or other damage to health, or the death of a person;
- 3) in regard to claims regarding recovery of support payments;
- 4) in cases where execution in State revenue is to be performed; and
- 5) in cases where the person is released from the payment of court costs by a court decision – fully or partially in conformity with the court decision.

(3) In cases where a judgment creditor is exempt from payment of execution of judgment expenditures, the expenditures necessary for the performance of execution activities shall be covered from the funds of the State budget.

(4) The Cabinet shall determine the amount of expenditures required for performance of execution activities and the procedures for payment of such.

(5) If a decision by a competent institution regarding forced execution of sanctions specified by international organisations is to be executed, the amount of the official remuneration rates and the performance of execution activities necessary expenditures shall be covered from State budget funds according to the procedures determined by the Cabinet.

[31 October 2002; 19 June 2003; 26 October 2006]

Section 568. Deduction of Execution of a Judgment Expenditures from a Debtor

(1) Execution of a judgment shall be performed at the expense of the debtor. Voluntary execution of a judgment after the execution document has been submitted for execution shall not exempt the debtor from reimbursement of the execution of the judgment expenditures.

(2) A bailiff shall make a calculation regarding the execution of a judgment expenditures and send it to the debtor and judgment creditor. The calculation may be appealed in accordance with the procedures specified in Section 632 of this Law.

(3) The calculation shall specify the extent to which the execution of a judgment expenditures shall be reimbursed to the bailiff (remuneration for work), judgment creditor (his or her paid State fee and other execution of a judgment expenditures) or transferred to State revenue.

(4) If it is not possible to deduct execution of a judgment expenditures from the debtor, the bailiff shall issue an invoice on the basis of the calculation drawn up and transfer it for compulsory execution.

(5) The invoice shall be transferred for compulsory execution when the time period for appeal of the execution of a judgment expenditures calculation drawn up by the bailiff has expired, but if it has been appealed — after the coming into legal effect of the court adjudication.

[31 October 2002]

Section 569. Search for a Debtor

(1) If the location of a debtor is not known, a judge shall, pursuant to the request of an interested party, take a decision regarding search for the debtor with the aid of the police in the following matters:

1) regarding recovery of means of support;

2) regarding claims arising due to personal injury resulting in mutilation or other injury to health, or in the death of a person; or

3) regarding recovery of revenues for the State.

(2) Pursuant to an application by police authorities, a court shall take a decision regarding recovery of costs relating to a search for a debtor.

Division Fourteen
Application of Compulsory Execution Measures

[31 October 2002]

Chapter 70
General Provisions Regarding Recovery

Section 570. Directing Recovery against Property of Natural Persons

(1) Recovery shall be directed against the property of a natural person and against the share of such person in joint property and in joint spousal property and in cases provided for by law, against aggregate spousal property.

(2) Recovery shall not be brought against property of a debtor, if the debtor works or receives a pension or a scholarship and the amount to be recovered does not exceed that part of a monthly income against which recovery may be brought, pursuant to law.

Section 571. Property against which Recovery may not be Directed

In executing judgments, recovery may not be directed against the property referred to in Annex 1 of this Law, except for recovery of such debts, which are ensured by pledging the relevant articles.

[31 October 2002]

Section 572. Recovery from Legal Persons

(1) Pursuant to execution documents a bailiff shall first direct recovery against such monetary funds of legal persons as are deposited in credit institutions.

(2) If by directing recovery against monetary funds of legal persons in credit institutions the claim of the judgment creditor is not satisfied, the bailiff shall direct recovery against the property of the legal person.

[31 October 2002]

Chapter 71
Directing Recovery against Movable Property

Section 573. Attachment of Movable Property of a Debtor

(1) Attachment of movable property of a debtor shall mean the inventorizing, sealing (indicating who and in which matter has attached the property) and guarding of such property. Sealing of property need not be performed if it may damage the property or significantly affect the value thereof. Property included in movable property registers may not be sealed. The Cabinet shall determine the procedures for sealing of attached movable property.

(2) Should there be doubt regarding ownership of property the bailiff shall request information from movable property registers regarding debtor's ownership of such property, as well as ascertain in the Commercial Pledge Register whether the movable property owned by the debtor has not been pledged.

(3) The bailiff shall not attach movable property if it might not be possible to sell such and execution of a judgment expenditures might exceed the amount of money to be acquired from sale.

[31 October 2002; 7 September 2006]

Section 574. General Provisions regarding Attaching of Movable Property of a Debtor

- (1) A bailiff shall attach movable property of a debtor in such amount as is required for the discharge of the amount to be recovered and to cover the execution of the judgment expenditures. The bailiff shall not attach ancillary articles of principal articles separately from the principal article.
- (2) A bailiff may attach the movable property of a debtor the value of which exceeds the amount adjudged to the judgment creditor and execution of the judgment expenditures if the debtor does not have another property subject to attachment or the value of such property does not cover the amount to be recovered and execution of the judgment expenditures.
- (3) If a commercial pledge in respect of the debtor's movable property is registered in the Commercial Pledge Register in favour of third persons, the bailiff shall attach such movable property of the debtor, which is not encumbered with a commercial pledge. In such case the bailiff shall require that the debtor and the pledgee notify the amount of the remaining debt.
- (4) A bailiff may direct recovery against movable property, which is pledged as a commercial pledge or a possessory pledge for security of claims by third persons with consent of the relevant pledgee, as well as direct recovery against money surplus in the case the pledge is sold. If the pledgee does not agree to the sale and hesitates to sell the pledged property without a justifiable reason, the bailiff shall explain to the judgment creditor that he or she may request the court to set a time period for sale of the pledged property to enable directing recovery against the money surplus, as well as explain the right to establish a commercial pledge.
- (5) If the bailiff finds that the movable property has already been attached for a different recovery, he or she shall compare the property with the property inventory statement drawn up in the previous attachment and attach only those articles, which are not included in the previous inventory statement.
- (6) If the debtor is absent or evades execution of the adjudication, movable property shall be attached by a bailiff with participation of a representative from a local government or the police.
- (7) The debtor and the judgment creditor have the right to invite to attachment of the movable property of the debtor not more than two witnesses. The failure of witnesses to attend does not stay the attachment of the property.
- (8) In the course of attachment of the movable property the debtor is entitled to inform the bailiff against which articles recovery should be directed first. The bailiff shall satisfy such application if it is not contrary to the provisions of this Law and does not impede execution of the adjudication.
- (9) Attachment of the movable property of the debtor pursuant to one execution document is not an impediment for directing recovery against such property pursuant to another execution document.
- (10) Attachment of a ship shall apply not only to the hull of the ship, but also to all ship equipment, including that which ensures the navigation of the ship. A ship in joint property shall be attached in the entire composition thereof, without previously separating the debtor's right to his or her part. The Register of Ships shall be notified of the attachment of a ship.
- (11) If a means of transport or another movable property subject to registration is attached, the bailiff shall notify the relevant register institution of its attachment.

[31 October 2002; 7 September 2006]

Section 575. Attachment of Property of a Debtor if the Property is in the Possession of Another Person

- (1) If there is evidence that the property of a debtor is in the possession of another person, a bailiff shall attach such property in accordance with the general procedures.

(2) [31 October 2002]

(3) If property of a debtor is located with another person as a result of a mutual agreement they have entered into, the issue concerning the preservation of the rights of the other person arising from the agreement shall be decided by a court in accordance with the procedures regarding claims.
[31 October 2002]

Section 576. Inventorizing of Movable Property

(1) In inventorizing movable property, its individual qualities and quantity shall be accurately set out.

(2) In inventorizing movable property, new articles shall be distinguished from used articles, and the degree of wear and tear shall be indicated for the latter.

(3) In inventorizing precious metals, official hallmarks (assay marks) shall be indicated, if such are known. If articles decorated with precious stones are being described, the number, size and name of the stones shall be indicated.

(4) In inventorizing goods, including products and materials kept in goods packaging, the numbers or marks on their packaging and the names and description of the goods to be kept in such packaging shall be indicated.

(5) In inventorizing securities, their quantity, class, nominal value and numbers shall be indicated.

(6) In inventorizing movable property the bailiff may pack separate articles in packages, indicating on the packaging the names of the inventorized articles.

[31 October 2002]

Section 577. Property Inventory Statement

(1) There shall be set out in a property inventory statement:

1) the time when and place where the statement was drawn up;

2) the official appointment location of the bailiff and location of his or her practice, and the given name and surname of the bailiff;

3) the judgment or decision of the court, other institution or official, which is being executed;

4) the given name and surname of the judgment creditor and the debtor, or of their authorised representatives present at the inventorizing of the property;

5) the given name, surname and place of residence of witnesses and the given name, surname and official position of officials;

6) the name of each article inventorized and its individual features (Section 576), the appraisal of each individual article and the value of the entire property;

7) [31 October 2002]

8) the given name, surname and place of residence of the person to whom the property has been transferred for storage;

9) confirmation that the procedures and time periods regarding appeal of the actions of the bailiff have been explained to the judgment creditor and the debtor;

10) confirmation that the procedures regarding storage of the inventoried property and civil and criminal liability if the property transferred for storage is embezzled, alienated, concealed or substituted have been explained to the storer of the property; and

11) the remarks and objections made by the judgment creditor or debtor, or by other persons present at the inventorizing of the property.

(2) A property inventory statement shall be signed by a bailiff, judgment creditor, debtor, storer of the property and by other persons, who have taken part in the inventorizing of the property. If the

judgment creditor, debtor or their representatives do not sign the property inventory statement, the bailiff shall make an appropriate note thereof in the statement.

(3) A judgment creditor or debtor who have signed the inventory statement without making any notes do not have the right to subsequently submit a complaint regarding errors in the inventory statement.

[31 October 2002]

Section 578. Appraisal of Property to be Attached

(1) Appraisal of the property of a debtor shall be made by a bailiff in accordance with the prices prevalent in the area and taking into account the degree of wear and tear thereof. An expert shall be invited for appraisal of a ship.

(2) Until announcement of an auction of the attached property or conclusion of a contract regarding commission the judgment creditor or the debtor may request the bailiff in writing to invite an expert for repeated appraisal of the property. Prior to inviting an expert the bailiff shall notify the person who requested that an expert be invited of the amount of appraisal costs in writing. Appraisal costs shall be covered by the person who requested that an expert be invited, transferring the required amount of money to the bailiff's account within five days after receipt of the notification. If the amount of money required for appraisal has not been paid, the bailiff shall dismiss the request to invite an expert.

(3) If it is not possible at the request of a party to invite an expert on the day when the property is inventorized, the bailiff shall specify in the property inventory statement the value of the property determined by himself or herself.

[31 October 2002]

Section 579. Guarding of Property

(1) In order to ensure guarding of attached property the bailiff shall appoint a storer of property. The attached property of the debtor shall be delivered by the bailiff for storage to a natural person upon signature therefor. If the storer of the property is not able to ensure guarding of the attached property at the address where it was attached, the bailiff shall remove the property and deliver it to the storer of the property. The bailiff at any stage of execution of the adjudication is entitled to take a decision to replace the storer of the property if the storer is not able to continue performance of his or her duties or does not ensure appropriate storage of the property.

(2) A debtor or members of his or her family may use the property left with him or her for storage if, due to the characteristics of such property, the use thereof does not destroy the property or in substance decrease its value.

(3) If a storer is not a debtor or a member of the debtor's family, the storer shall receive remuneration for storage.

(4) In attaching movable property, there shall be obtained from the debtor or the storer their signature to the effect that they will not alienate, pledge or use the property for any other function or purpose and that they may be held criminally liable for its embezzlement, alienation, concealment or substitution.

(5) At the request of the bailiff the storer of the property shall present the attached property delivered to him or her for storage.

[31 October 2002]

Section 580. Storage of Valuable Property Removed from a Debtor

(1) A bailiff shall inventory gold and silver articles and other valuables, as well as securities found in the possession of a debtor in accordance with general procedures. The bailiff shall remove the inventorized valuables and securities and, if storage thereof cannot be ensured, transfer them for storage to a credit institution.

(2) Money found in the possession of a debtor shall, in such amount as is required for the discharge of the debt to be recovered and of the execution expenditures, be removed by the bailiff and paid into the bailiff's deposit account.

[31 October 2002]

Section 581. Sale of Attached Property

(1) A bailiff has the right to sell the property of a debtor if within 10 days after the property is attached no complaints regarding the actions of the bailiff have been submitted or no request regarding invitation of an expert for repeated appraisal of the property has been submitted. If complaints have been submitted, the bailiff has the right to sell the property of a debtor after the complaints have been adjudicated but not earlier than 10 days after attachment of the property. If a request regarding invitation of an expert has been submitted — after repeated appraisal of the property or dismissal of the request but not earlier than 10 days after attachment of the property.

(2) In cases where, as a result of particular facts, a delay in the execution of an adjudication may cause significant losses to a judgment creditor, or the recovery itself may become impossible, the property shall be removed and sold without delay.

(3) The bailiff may sell the attached property by auction as one auction item if identical articles or sets of articles have been attached.

[31 October 2002]

Section 582. Procedures regarding Sale of Attached Property

(1) A bailiff shall sell attached property at auction, but if requested by the judgment creditor and the debtor does not object, the bailiff may transfer the attached property to a trading undertaking for sale pursuant to terms regarding commission. If the judgment creditor has not requested it, the attached property may only be transferred to a trading undertaking on commission in cases provided for by this Law.

(2) Capital shares of a company, co-operative shares and non-publicly issued stocks, as well as other intangible property shall be sold at auction by a bailiff, but publicly traded stocks and other securities shall be delivered for the sale thereof at the Rīga Stock Exchange.

(3) The bailiff may remove attached movable property: .

1) to transfer it for sale on commission;

2) prior to sale at auction, if necessary; or

3) in order to transfer it, in cases set out by this Law, to the highest bidder of the movable property, judgment creditor or debtor.

(4) If a debtor pays the debt and execution of a court judgment expenditures in full prior to the sale of the attached property, the sale shall be suspended and the attached property returned to the debtor.

(5) After sale of the attached property or transfer thereof to the judgment creditor (in cases set out by this Law) the bailiff shall take a decision regarding release of the sold property from attachment, as well send to the relevant holder of a movable property register or another public register a notification regarding revoking of the prohibition and release of the property from attachment.
[31 October 2002]

Section 583. Sale of Attached Property on Commission

- (1) Attached property of a debtor shall be sold on commission through a trading undertaking.
- (2) Sale of property shall be permitted within the boundaries of the judicial region of the official appointment location of the bailiff.
- (3) Attached property shall be delivered by a bailiff for sale in conformity with the time periods specified in Section 581 of this Law. The attached property shall be delivered for sale according to the price assessed by the bailiff, but if one or several repeated expert appraisals have been performed — according to the highest price assessed by the expert.
- (4) Things, which are subject to rapid deterioration, shall be removed and delivered for sale without delay.
- (5) Within a month from the transfer of property on commission, trading undertakings shall pay the amounts received to the bailiff's account. The trading undertaking shall receive remuneration in accordance with the terms of the contract.
- (6) Property of a debtor, which is not sold within a month after it is delivered to a trading undertaking, shall be re-appraised by the bailiff together with a representative of the trading undertaking, but not more than by 50 per cent of the initial price of the property. The judgment creditor and the debtor shall be notified of re-appraisal.
- (7) If the property is not sold within two months after its re-appraisal, the judgment creditor has the right to retain such property for himself or herself at the re-appraised amount, notifying the bailiff thereof in writing within a period of 10 days. If the judgment creditor does not retain the property, the bailiff shall return it to the debtor, releasing it from attachment, or sell by auction pursuant to provisions of the second auction at a price determined after re-appraisal.
[31 October 2002]

Section 584. Notification of an Auction of Movable Property

- (1) Notification of an auction of movable property, except an auction of ships, shall be given by a bailiff at least seven days prior thereto. There shall be set out in the notice the articles to be sold and their appraisal, the place and time of sale, the given name and surname of the debtor, as well as the given name, surname and official appointment location of the bailiff.
- (2) Notification of an auction shall be posted at the location of bailiff's practice, at the building where the auction is going to take place, and in a place determined by the local government.
- (3) If the total appraisal of the property exceeds one thousand lats the sale thereof shall also be announced in a local newspaper.
- (4) An interested person, at their own expense, may place a notice of an auction in newspapers and other mass media, as well as post the notice in public places in accordance with procedures determined by the relevant local government.
- (5) The judgment creditor and the debtor shall be notified of the auction.
[31 October 2002; 19 June 2003]

Section 585. Notification of an Auction of a Ship

Notification of an auction of a ship shall be take place according to the procedures specified in Section 55 of the Maritime Code.

[31 October 2002; 19 June 2003]

Section 586. Persons Having no Right to Participate in Bidding

A debtor, their guardian or trustee, a person who has participated in the attachment of the property, the auctioneer of the property and a police or local government representative present at an auction do not have the right to participate in the bidding. A judgment creditor has the right to participate in the bidding in accordance with general procedures.

[31 October 2002]

Section 587. Procedures regarding an Auction of Movable Things

(1) An auction of movable property shall be commenced from the appraisal of the bailiff but if one or several repeated appraisals have been performed — from the highest appraisal by the expert. In opening an auction of each auction article, the bailiff shall announce the initial auction price of the article, determine the bid increment of not less than one per cent of the initial auction price of the property and ask the participants of the auction whether anybody bids more. The bailiff shall orally inform as to the prices bid by buyers and record them in the statement of auction so long as bidding of a higher price continues.

(2) When bidding of a higher price ceases, a bailiff shall ask three times if there is anyone who bids more. If the third time is not followed by a higher bid, a bailiff shall make a rap of the gavel and announce that higher bids are no longer accepted and the article to be auctioned is sold.

(3) An auction of a ship shall take place pursuant to the provisions provided for auctions of immovable property.

(4) A debtor has the right to determine the order in which articles are to be auctioned.

(5) If the amount received by selling part of the attached property is sufficient to cover the complete recovery and execution of a court judgment expenditures, the remaining articles shall not be auctioned. When the bidders have paid the purchase price in full these articles shall be released from attachment and returned to the debtor, and the bailiff shall draw up a statement to this effect.

(6) A person who has bid the highest price for an article being sold, shall pay at least one fifth of the price bid immediately and the full amount bid not later than on the next working day after the auction. If the amount bid exceeds one thousand lats, the bailiff, at the request of the highest bidder, may postpone the payment of the full price of the purchase for a period up to seven days. After the amount bid at the auction has been paid in full, purchased articles shall be given to the highest bidder and the bailiff shall draw up a statement to this effect.

[31 October 2002]

Section 588. Statement of Auction

In a statement of auction a bailiff shall set out the following:

- 1) the date and place of the auction;
- 2) the given name, surname, official appointment location and location of practice of the bailiff;
- 3) the adjudication which is executed;
- 4) the name or number of article to be sold, according to the inventory statement;

- 5) the initial auction price of the article to be sold and the bid increment;
- 6) the highest price bid at the auction;
- 7) the given name, surname, personal identity number and address of the buyer; and
- 8) whether the debtor or their representative were present at the sale.

[31 October 2002]

Section 589. Announcement of an Auction as not Having Taken Place

- (1) A bailiff shall announce an auction as not having taken place if:
 - 1) buyers have failed to attend or only one buyer has attended the auction;
 - 2) no one of those, who are present, bids more than the initial auction price; or
 - 3) the purchaser, within the time period set, does not pay the whole amount which they bid for the property.
- (2) In the case provided for in Paragraph one, Clause 3 of this Section the money paid in after bidding shall not be refunded, but shall be added to the total amount received for the property.

Section 590. Consequences Resulting from Announcement of an Auction as not Having Taken Place and Second Auction

- (1) If an auction is announced as not having taken place, a judgment creditor has the right to retain the attached property at the initial auction price, notifying the bailiff thereof in writing within a period of two weeks from the day of the auction.
- (2) If several judgment creditors wish to retain the attached property at the initial auction price, a repeated first auction shall be organised with the participation of the judgment creditors who wish to retain the attached property for themselves at the initial price, and the bidding shall commence from the initial price of the first auction. The bailiff shall notify judgment creditors of the time and place of the auction in writing seven days in advance. The failure of a judgment creditor to attend the auction shall be considered as his or her waiver of the right to retain the property for himself or herself. If one judgment creditor attends the auction he or she may retain the attached property without bidding. If none of the judgment creditors attend the auction, the bailiff shall, without delay, set a second auction.
- (3) If an application of a judgment creditor regarding retention of the attached property at the initial auction price has not been received within two weeks from the date of the auction, a bailiff shall, without delay, order a second auction. Notification of a second auction shall take place in compliance with the provisions regarding the first auction.
- (4) Bidding in the second auction of movable property shall be commenced from the initial price of the first auction and it shall take place in conformity with the procedures provided for by Section 587, Paragraph one of this Law.
- (5) If none of those who have arrived bid more than the initial auction price, the bailiff shall announce that auctioning of the article with a decreasing bid is commenced. The bailiff shall decrease the initial auction price of the article by the previously specified bid decrement which may not be greater than 10 per cent of the initial auction price and ask whether anybody of the persons present bid such price. For each lowering of the price the bailiff shall make a notation in the statement of auction. The bailiff shall discontinue auctioning of the article if none of the persons who have arrived bid even 10 per cent of the initial auction price of the article.
- (6) If any of the persons present at the second auction bids the announced price of the article, the bailiff shall ask three times if there is anyone who bids more and if no higher bid follows, make a rap of the gavel and announce that higher bids are no more accepted and the article to be auctioned

is sold. If anyone bids more, the auction shall continue with an increasing bid in conformity with the provision of Section 587, Paragraph two of this Law.

(7) A person who has bid for an article being sold below the initial price of the second auction, shall without delay pay the full amount bid. A person who has bid for the article being sold at a price higher than the initial price, shall pay the price bid and receive the article purchased in accordance with the procedures prescribed by Section 587 of this Law.

(8) If the second auction is also announced as not having taken place and the judgment creditor within two weeks from the second auction has not informed of his or her wish to retain the attached property for himself or herself at the last bid price or the last price called by the bailiff, the property shall be returned to the debtor, releasing it from attachment and the bailiff shall draw up a statement to this effect.

[31 October 2002]

Section 591. Declaration of an Auction as Invalid

(1) A court shall declare an auction to be invalid if:

- 1) any person has unjustifiably not been allowed to participate in the auction, or a higher bid has wrongly been refused;
 - 2) the property was bought by a person such as was not entitled to participate in the auction;
 - 3) the property was sold before the time period stipulated by the notice of sale; or
 - 4) the bailiff, judgment creditor or buyer has demonstrated bad faith.
- (2) An ancillary complaint may be submitted regarding the court decision.

Chapter 72

Directing Recovery against Remuneration for Work, Payments Equivalent thereto and other Amounts of Money

[31 October 2002; 7 September 2006]

Section 592. Directing Recovery against Remuneration for Work

(1) Recovery shall be directed against remuneration for work of a debtor, also against payment received by the debtor for fulfilling a position in the civil service or military service if:

- 1) an adjudication regarding recovery of periodic payments is being executed;
- 2) the amount to be recovered does not exceed such part of monthly payments for work or payments equivalent thereto as recovery may be directed against pursuant to law; or
- 3) a judgment creditor has requested to direct recovery against remuneration for work or payments equivalent thereto.

(2) Recovery shall also be directed against remuneration for work of a debtor in instances where the debtor does not have property or it does not suffice for recovery of the debt.

[31 October 2002]

Section 593. Information concerning Debtor's Remuneration for Work and Payments Equivalent thereto

An employer, at the request of a bailiff and within his or her specified time period, shall provide information as to whether a debtor works for him or her and what the remuneration for work and payments equivalent thereto of the debtor within the time period specified by the bailiff are.

[31 October 2002]

Section 594. Amount of Deductions from Remuneration for Work and Equivalent Payments of a Debtor

(1) Until the debt to be recovered is discharged, deductions shall be made, in accordance with the execution documents, from remuneration for work and payments equivalent thereto paid to a debtor:

1) in means of support recovery matters for the support of minor children or for the benefit of the Means of Support Guarantee Fund administration – in preserving the work remuneration of the debtor and payments equivalent thereto in the amount of 50 per cent of the minimum monthly wage;

2) in recovering means of support, compensating for losses arising from personal injuries which have resulted in mutilation or other injury to health or in the death of a person, or compensating for losses which have been occasioned through commission of a crime - 50 per cent; and

2) in other types of recovery, unless provided otherwise by law - 30 per cent.

(2) If recovery is directed against remuneration for work pursuant to several execution documents, the employee shall in any event retain 50 per cent of the remuneration for work and payments equivalent thereto, except in the case specified in Paragraph one, Clause one of this Section.

(3) [31 October 2002]

(4) The amount to be deducted from remuneration for work and payments equivalent thereto shall be calculated from the amount to be received by a debtor after payment of taxes.

[31 October 2002; 17 June 2004]

Section 595. Directing Recovery against Income of a Debtor other than Remuneration for Work

(1) The conditions and procedures prescribed by this Chapter which shall be observed when directing recovery against remuneration for work also apply in instances where a debtor receives:

1) a scholarship to an educational institution;

2) amounts as compensation for losses arising from personal injuries which have resulted in mutilation or other injury to health, or in the death of a person; or

3) a sickness or an unemployment benefit.

(2) In directing recovery against pensions and social benefits, provisions regarding directing recovery against remuneration for work shall be applied in compliance with the deduction limits prescribed by pension laws and other laws.

[31 October 2002]

Section 596. Amounts against which Recovery may not be Directed

Recovery may not be directed against:

1) severance pay, a birth allowance, or a burial allowance;

2) compensation for wear and tear of tools belonging to an employee and other compensation in accordance with regulatory enactments which regulate lawful employment relations;

3) amounts to be paid to an employee in connection with official travel, transfer, and assignment to work in another populated area; or

4) social assistance benefits.

[31 October 2002]

Section 597. Procedures regarding Directing of Recovery against Remuneration for Work, Payments Equivalent thereto and Other Income of a Debtor

[31 October 2002]

(1) A bailiff shall send an order to an employer or to the relevant legal person with instructions to make deductions from remuneration for work or other remuneration, a pension, a scholarship or benefits of a debtor and, at the expense of the debtor, transfer the amounts deducted to the judgment creditor or to deposit account of the bailiff.

(2) When terminating employment relations with the debtor, the employer shall inform the bailiff regarding the amount, which has been transferred to the judgment creditor or to deposit account of the bailiff, and the new place of work of the debtor, if such is known. These provisions shall also apply to legal persons who have made deductions from a pension, a scholarship or benefits paid to a debtor, if the making of such payments is terminated.

[31 October 2002; 19 June 2003]

Section 598. Control of the Correctness of Deductions

A bailiff, pursuant to a written request of a judgment creditor, shall examine whether an employer (the relevant legal person) has correctly and duly made deductions from the remuneration for work and other income of a debtor and whether the amounts deducted have been transferred to the judgment creditor.

[31 October 2002]

Section 599. Directing of Recovery against Payments, which are Due from Other Persons

(1) If recovery is directed against payments, which are due from other persons, a bailiff shall forward a request to such persons to inform whether they have a duty to pay any amounts to a debtor, on what basis and within what time period.

(2) Simultaneously with the request, the bailiff shall give notice that such payments shall be attached in the amount to be recovered and the amount of costs of execution of the judgment, and that until the amount to be recovered and the amount of costs of execution of the judgment is fully discharged, these persons shall pay in the payments into the bailiff's deposit account.

(3) If a debtor has a deposit in a credit institution, a bailiff shall give an order to the credit institution to transfer the deposited funds in the amounts indicated by the bailiff to be recovered and the amount of costs of execution of the judgment to the bailiff's deposit account, taking into account the limitation in relation to the debtor provided for in Annex 1, Paragraph 3 of this Law. The order of the bailiff shall be executed without delay.

[31 October 2002; 19 June 2003; 7 September 2006]

Chapter 73

Directing of Recovery against Immovable Property

Section 600. Notice of Directing of Recovery against Immovable Property

(1) If a judgment creditor requests that recovery be directed against immovable property, a bailiff shall forward a notice to a debtor and invite the debtor to settle the debt. The request of the judgment creditor shall be accompanied with as many true copies of adjudications issued by court

which have come into legal effect as there are immovable properties against which recovery is directed.

(2) Simultaneously, the bailiff shall inform the Land Registry Office of the directing of recovery against the immovable property and the Land Registry Office shall make an entry regarding this in the Land Register. The consequences of such entry are set out in Section 1077, Paragraph one; Section 1082 and 1305 of The Civil Law, as well as in Section 46 of the Land Register Law.

(3) The bailiff shall request a true copy of the relevant Land Register subdivision from the Land Registry Office and send a notice to joint owners of the immovable property, as well as to all mortgage creditors, including persons for whose benefit an entry regarding the right of pledge is made, setting out:

1) the person whose claim the recovery against the immovable property are being directed to satisfy; and

2) what the amount of the debt is and whether the debt has been secured by a mortgage on the relevant immovable property.

(4) In the notice referred to in Paragraph three of this Section the bailiff shall request that the mortgage creditors in a time period specified by the bailiff that is not less than 10 days submit information regarding the amount of the remaining mortgage debt.

(5) The bailiff shall request from a local government information regarding the tax arrears of the immovable property and invite the local government to submit a decision regarding recovery of the tax arrears if such exist.

[31 October 2002; 19 June 2003]

Section 601. Duties of a Debtor

(1) From the date of receipt of a notice by a bailiff, a debtor is prohibited from:

- 1) alienating such immovable property or placing a lien thereon;
- 2) felling trees thereon, except as necessary to maintain the household; or
- 3) alienating or damaging appurtenances of the immovable property.

(2) Agreements which a debtor of immovable property has entered into after an entry has been made in the Land Register regarding recovery have no effect as against the judgment creditor and a buyer of the immovable property at auction.

(3) The effect of those agreements which the debtor has entered into regarding the immovable property before an entry has been made in the Land Register regarding recovery shall be determined both as against the parties which participated in such agreements and as against the buyer of the immovable property at auction in accordance with the Civil Law.

[31 October 2002]

Section 602. Rights of Judgment Creditors and Other Creditors

(1) A judgment creditor irrespective of the directing of recovery against immovable property shall have the right to request that a mortgage be secured on his or her behalf in the Land Register to the extent of the amount to be recovered.

(2) A mortgage creditor shall have the right to participate in the inventoring of immovable property, to receive an inventory statement and, with the consent of a bailiff, to publish a notice of an auction.

(3) A mortgage creditor and a judgment creditor shall have the right to participate in bidding.

[31 October 2002]

Section 603. Inventorizing of Immovable Property

(1) A bailiff shall inventorize immovable property pursuant to the request of a judgment creditor. The bailiff shall notify the debtor of the time of inventorizing of immovable property by sending a notice provided for in Section 600 of this Law, and the judgment creditor. The debtor and the judgment creditor have the right to invite to inventorizing of immovable property not more than two witnesses. The failure of the debtor, judgment creditor or witnesses to attend does not stay the inventorizing.

(2) There shall be set out in an inventory statement:

- 1) the given name, surname, official appointment location and location of practice of the bailiff;
- 2) the adjudication by court or another institution which is being executed;
- 3) the given name and surname of the judgment creditor and debtor or their authorised representatives if such participate in the inventorizing;
- 4) the given name and surname of the witnesses if such participate in the inventorizing;
- 5) the place where the immovable property is situated;
- 6) the component parts of the immovable property;
- 7) on the basis of entries in the Land Register:
 - a) the value of the immovable property to be inventorized, if such is specified, its owner, encumbrances with debt and their amount, as well as restrictions and encumbrances imposed on the immovable property, and
 - b) information regarding the state of the immovable property and agreements entered into regarding such property, if the bailiff has knowledge thereof, as well as information regarding movable property which is an appurtenance of the immovable property; and
- 8) the actual possessor or manager of the immovable property, if such are known.

(3) In inventorizing a technologically mutually linked set of installations and buildings, there shall also be set out in which buildings it is situated in, the size and composition of the buildings occupied, the number of workrooms, machine tool benches and other equipment.

(4) In inventorizing immovable property, provisions of Sections 576 and 577 shall also be applied.

(5) A debtor shall submit documents and plans by which the area of the immovable property to be inventorized and the rights of the debtor to such property have been determined, as well as notify the bailiff of the actual possessor and manager of the immovable property.

(6) A bailiff, pursuant to the request of the interested parties and at their expense, may request from the Land Registry Office true copies of such documents as pertain to the immovable property to be inventorized.

(7) Non-receipt of the documents mentioned in Paragraphs five and six of this Section does not stay the inventorizing.

(8) If the debtor or the judgment creditor has not participated in the inventorizing of the immovable property, the bailiff shall send them the inventory statement within three days after the inventorizing.

[31 October 2002]

Section 604. Appraisal of Immovable Property

(1) The value entered in the Land Register shall be indicated as the value of immovable property. If such entry in the Land Register does not exist, the value of immovable property during

inventorizing shall not be indicated but, at the request of a bailiff, an appraisal shall be made. The sum of money required for appraisal shall be paid in by the judgment creditor. The bailiff shall request that appraisal be made only when the sum of money required for appraisal has been paid in the bailiff's account. The bailiff shall notify the debtor and judgment creditor of expert's appraisal.

(2) A debtor or a judgment creditor, within 10 days after inventorizing of immovable property or, if appraisal of immovable property is made, after notification of expert's appraisal, may request re-appraisal of the immovable property. Prior to requesting appraisal the bailiff shall notify the person who requested that an expert be invited in the writing of the amount of appraisal costs. Appraisal costs shall be covered by the person who requested that an expert be invited, by paying the required sum of money into the bailiff's account within the time period set by the bailiff. If the sum of money required for appraisal is not paid in within the set time period, the bailiff shall dismiss the request regarding re-appraisal of immovable property.

(3) The appraisal of immovable property shall be made by a certified appraiser of immovable property.

[31 October 2002]

Section 605. Administration of Immovable Property

(1) Inventorized immovable property shall, until the transfer to the new owner, remain in the administration of the former possessor or manager.

(2) A possessor or manager of property shall preserve the inventorized immovable property in the condition in which it was at the moment of inventorizing and together with the same movable property.

(3) If the possessor or manager of immovable property is not known, the bailiff may at his or her discretion appoint a manager of the immovable property. The manager of immovable property appointed by the bailiff shall have the same liability as the storer of movable property provided for by this Law.

(4) The possessor and manager of immovable property shall provide an accounting to a bailiff regarding the period of administration of the inventorized property. Income received from the immovable property shall be delivered to the bailiff and added to the amount received from the sale of such property.

[31 October 2002]

Section 606. Announcement of an Auction of Immovable Property

(1) An auction of immovable property, if within the time period set out in Section 604 of this Law no request regarding re-appraisal of immovable property has been submitted or it has been dismissed, shall be announced by a bailiff:

1) at least one month prior to the auction, if the initial auction price of the immovable property does not exceed fifty thousand lats;

2) at least two months prior to the auction, if the initial auction price of the immovable property exceeds fifty thousand lats and does not exceed three hundred thousand lats; and

3) at least three months prior to the auction, if the initial auction price of the immovable property exceeds three hundred thousand lats.

(2) A notice of an auction of immovable property shall be published by a bailiff in the newspaper *Latvijas Vēstnesis*, and at least two weeks prior to the auction posted at the immovable property which is to be sold and at the location of bailiff's practice.

(3) There shall be set out in a notice regarding an auction of immovable property:

- 1) the given name and surname of the owner and of the judgment creditor of the immovable property, and for legal persons, their name and location (legal address);
 - 2) the given name, surname, official appointment location and location of practice of the bailiff;
 - 3) a short description and location of the immovable property;
 - 4) an appraisal of the immovable property;
 - 5) the mortgage creditors and their claims;
 - 6) that all persons having rights to the immovable property as do not allow of its sale by auction must submit their claims to the court by the day of the auction;
 - 7) which auction, in order, it is;
 - 8) the time and place of the auction; and
 - 9) the amount of security as is to be paid into the bailiff's deposit account.
- (4) A bailiff shall notify debtors, judgment creditors, and joint owners and mortgage creditors, if any, of an auction of the immovable property.
- (5) All documents relating to a sale at auction shall be available to all persons who wish to familiarise themselves with such, from the day of notification of the auction.
- (6) In announcing an auction of immovable property provisions of Section 584, Paragraph four of this Law shall also apply.
- [31 October 2002]*

Section 607. Security for the Purchase of Immovable Property

- (1) Persons wishing to participate in an auction of immovable property shall pay, by way of security, the amount of 10 per cent of the appraised value of the immovable property into the bailiff's deposit account.
- (2) Prior to an auction the bailiff shall ascertain whether the amount of security has been transferred to the bailiff's deposit account.
- (3) Security which has been paid by a person who has bought immovable property at auction shall be included in the purchase price. After the auction, security paid in shall be returned, without delay, to others participating in the auction.
- [31 October 2002]*

Section 607.¹ Initial Auction Price

- (1) An auction shall commence at the highest appraised amount, if there have been several appraisals, or from the amount of those claims (execution of a judgment expenditures, tax arrears and other debts) as according to the order in which the claims of judgment creditors are satisfied have priority if compared with all recoveries directed against immovable property, depending on which of these amounts is bigger.
- (2) In order to determine the initial auction price, the bailiff shall make a calculation of the initial auction price which shall specify:
- 1) the amount of execution of the judgment expenditures;
 - 2) the amount of tax arrears of the immovable property;
 - 3) the amount of each claim by a mortgage creditor, in conformity with his or her rights of priority; and
 - 4) the amount of other claims which are to be satisfied before the claim of the person who requested that recovery be directed against the immovable property.
- (3) The debtor, the judgment creditor, as well as persons who wish to participate in the auction of the immovable property have the right to become acquainted with the calculation.

[31 October 2002]

Section 608. Procedures regarding an Auction of Immovable Property

(1) Prior to an auction the persons who have arrived to the auction shall present to a bailiff personal identity documents and documents certifying authorisation (representation right) and submit true copies of these documents. In opening an auction the bailiff shall announce the immovable property to be sold, the initial auction price and determine the bid increment of not less than one per cent of the initial auction price of the immovable property. Thereafter the bailiff shall ask the participants of the auction whether anybody bids more. So long as bidding of a higher price continues the bailiff shall orally inform as to the prices bid by buyers and record them in the statement of auction, specifying the given name and surname of the bidder.

(2) When bidding of a higher price ceases, the bailiff shall ask three times if there is anyone who bids more. If the third time is not followed by a higher bid, the bailiff shall make a rap of the gavel and announce that higher bids are no longer accepted and the immovable property to be auctioned is sold.

[31 October 2002]

Section 609. Double Auction

(1) A double auction may be requested by a mortgage creditor if, after a mortgage has been secured, such encumbrance of immovable property has been entered in the Land Register, without the consent of the mortgage creditor, as may affect the amount realisable by the mortgage creditor, and the auction takes place directly regarding recovery of the claim of such mortgage creditor or of the claim of a mortgage creditor entered in the Land Register in priority to such mortgage creditor.

(2) The immovable property may be sold at auction with the condition that the mentioned encumbrance is to remain or with the condition that the mentioned encumbrance is to be discharged.

(3) If no person wishes to acquire the immovable property with the encumbrance remaining thereon, it shall go to the highest bidder therefor with the condition that the encumbrance is to be discharged.

(4) If there are bidders wishing to purchase the immovable property with the encumbrance and others wishing to purchase it with the encumbrance discharged, the immovable property shall go to the highest bidder provided the encumbrance is discharged only if the price bid exceeds not only the highest price which has been bid on condition the encumbrance is to remain but also the amount of claims which have priority as compared to the claims of the mortgage creditor who has requested that there be a double auction.

[31 October 2002]

Section 610. Statement of Auction

(1) A bailiff shall set out in a statement of auction:

- 1) the date and place of the auction;
- 2) the given name, surname, official appointment location and location of practice of the bailiff;
- 3) the adjudication which is being executed;
- 4) what immovable property is sold by auction and the initial auction price;
- 5) persons participating in the auction as judgment creditors, debtors or bidders;
- 6) prices bid at the auction and the given name and surname of the bidder;

7) the highest price bid, the given name and surname or name, personal identity number or registration number and address of the buyer; and

8) encumbrances if the immovable property is sold with a condition that they are to remain.

(2) The statement of auction shall be signed by the bailiff, the highest bidder, the last outbid bidder, the judgment creditors and debtors, if they have been present at the auction, as well as by officials present at the auction.

[31 October 2002]

Section 611. Effects of an Auction

(1) Immovable property shall go to that person who has bid a price higher than others.

(2) A purchaser shall pay the whole amount he or she have bid within one month after the auction.

(3) After a purchaser of immovable property has paid the whole amount due from him or her, the bailiff shall submit the statement of auction for approval to the regional court in the territory of operation of which the immovable property is located.

(4) If a purchaser does not pay the whole amount due from him or her within the time period set, the security paid in shall be included in the total amount received for the property and divided pursuant to the same procedures as such amount. Security paid in shall also be included in the total amount where it is found that the purchaser did not have the right to take part in the auction.

[31 October 2002]

Section 612. Inclusions in Purchase Price

(1) A purchaser shall be allowed to have included in the purchase price the purchaser's mortgage claims, as well as other mortgage debts if the mortgage creditors agree to leave them on the immovable property, transferring such debts to the purchaser.

(2) If the amount received from the sale does not suffice to satisfy all the recovery and mortgage debts, the claims of the purchaser may be included in the purchase price only to the extent of the amount which pursuant to calculation is due to the purchaser after the claims having priority as compared to the purchaser's claims, have been covered.

Section 613. Approval of a Statement of Auction of Immovable Property

(1) A court shall adjudicate a matter regarding approval of a statement of auction of immovable property at a court sitting within 15 days from submission of the statement of auction to court, upon prior notice thereof to the judgment creditor, debtor, acquirer of the immovable property and mortgage creditors. The failure of such persons to attend is not an impediment to the approval of the statement of auction of immovable property.

(2) A court shall adopt a decision regarding the vesting of the sold immovable property in the name of the purchaser and that, irrespective of the consent of the creditor, the following are discharged:

1) all the debt obligations entered in the Land Register against such property regarding which the purchaser has not expressly given notice that the purchaser has himself or herself assumed; and

2) such encumbrances as the discharge of which was accepted as a condition in acquiring the property (Section 609).

(3) At the request of the acquirer the court shall decide on his or her being placed in possession of the acquired immovable property, which is associated with direction of the recovery to such immovable property.

- (4) A statement of auction may not be approved as long as all complaints submitted regarding bailiff's actions in this execution matter are not adjudged.
- (5) An ancillary complaint may be submitted regarding the court decision.
- (6) A court shall also approve a statement of auction of a ship in accordance with the procedures laid down in this Section.

[31 October 2002; 19 June 2003]

Section 614. Auction not Having Taken Place

- (1) A bailiff shall recognise an auction as not to have taken place, if:
- 1) no bidders attend the auction;
 - 2) no person of those who attend the auction bids more than the initial price;
 - 3) the purchaser does not pay the whole amount for which he or she have bought the immovable property within the time period set.
- (2) A bailiff shall record in the statement and shall give notice, that the auction is deemed to not have taken place, to the persons who attended the auction, and to the debtor, the debtor's joint owners, if the property to be sold is joint property, and creditors, if such persons were not present at the auction.

[31 October 2002; 19 June 2003]

Section 615. Consequences of an Auction not Having Taken Place

- (1) If an auction is declared as not having taken place, every creditor or joint owner of the debtor, as well as every buyer outbid at the auction shall have the right, within two weeks from the date of the auction not having taken place, to notify the bailiff that he or she retains the immovable property for himself or herself. If the auction has been declared as not having taken place for the reasons set out in Section 614, Paragraph one, Clauses 1 and 2 of this Law, the persons referred to may retain the immovable property for themselves at the initial price. If the auction is declared as not having taken place for the reason set out in Section 614, Paragraph one, Clause 3 of this Law, the purchaser outbid may retain the immovable property at the highest price he or she have bid.
- (2) If several persons in accordance with Paragraph one of this Section wish to retain the immovable property for themselves, a repeated first auction shall be organised where these persons shall participate, moreover, the bidding shall start from the price at which the persons may retain immovable property for themselves. The bailiff shall notify the persons wishing to retain the immovable property for themselves of the time and place of the auction in writing seven days in advance. The failure of a person to attend the auction shall be considered as his or her waiver of the right to retain such immovable property for himself or herself. If one person who wishes to retain such immovable property for himself or herself attends the auction, such person may retain it at the price provided for in Paragraph one of this Section without bidding. If nobody attends the auction, the bailiff shall, without delay, announce a second auction.
- (3) A person who retains immovable property for himself or herself shall, within one month, pay the amount indicated in Paragraph one or two of this Section into the bailiff's deposit account, the provisions of Section 612 of this Law being taken into account.
- (4) After payment of the amount referred to in Paragraph three of this Section, the bailiff shall submit a report and a statement of auction for approval to the court, which shall take a decision regarding the vesting of the immovable property in the name of the purchaser, joint owner or creditor and regarding the discharge of debts entered in the Land Register (Section 613.).
- (5) If no one has applied for the retaining of immovable property for himself or herself, a second auction shall be organised.

[31 October 2002; 19 June 2003]

Section 616. Second and Third Auctions

(1) A second auction shall be announced and organised, observing the provisions regarding a first auction. However, bidding for immovable property shall start from the amount which corresponds to 75 per cent of the initial price at the first auction.

(2) If a second auction is also deemed to not have taken place and no one intends to retain the immovable property for himself or herself (Section 615.), pursuant to the request of a judgment creditor, the bailiff shall hold a third auction, after one month from the date of advertising thereof, observing provisions regarding a first auction but bidding shall start from the amount which corresponds to 60 per cent of the initial price at the first auction.

(3) If a judgment creditor has not requested that a third auction be organised or if the third auction is also deemed not to have taken place and no one intends to retain the immovable property for himself or herself, the immovable property shall remain in the ownership of the previous owner and the entry in the Land Register regarding recovery shall be expunged.

[31 October 2002]

Section 617. Invalid Auction

(1) A court shall declare an auction to be invalid, if:

1) any person has unjustifiably not been allowed to participate in the auction, or a higher bid has wrongly been refused;

2) the immovable property was bought by a person who was not entitled to participate in the auction;

3) the immovable property was sold before the time period stipulated in the notice regarding the sale;

4) at the first auction the immovable property was sold for less than the amount of the claims which pursuant to the order of satisfaction of judgment creditor claims have priority in comparison with all of the recovery directed against the immovable property; or

5) the bailiff, the judgment creditor or the purchaser has demonstrated bad faith.

(2) The interested parties may submit a complaint regarding bailiff's actions, which provide the basis for requesting that an auction is declared invalid, to the regional court according to the location of the immovable property, within a period of 10 days from the day of the auction.

(3) An ancillary complaint may be submitted regarding the court decision.

(4) If an auction of immovable property is declared invalid, a repeated auction shall be organised pursuant to provisions of the auction, which was declared invalid.

(5) Dismissal of a complaint by an interested party is not an impediment for bringing an action in accordance with general procedures.

[31 October 2002]

Section 618. Sale of Immovable Property Held Jointly

(1) In directing recovery against one or several owners of undivided joint property, such property shall be inventorized in its entirety but only the right of a debtor to his or her part, without prior separation thereof, shall be sold at the auction.

(2) Immovable property held jointly may also be sold in its entirety, if the joint owners wish and creditors do not raise objections thereto. The money received from the sale shall be divided

between the owners of the immovable property but the amount due to the debtor shall be used for the discharge of the debt.

Chapter 74

Compulsory Delivery of Property Adjudged by a Court; Execution of Actions Imposed by a Court Judgment

Section 619. Delivery of Articles Set Out in a Court Judgment to the Judgment Creditor

(1) If specific articles set out in a court judgment are adjudged to a judgment creditor, a bailiff in accordance with the procedures prescribed by Section 555 of this Law shall notify the debtor of a duty to voluntarily execute the judgment. The bailiff shall also set out in the proposal the date when compulsory execution of the court judgment shall be performed if it is not executed voluntarily. If the court judgment is to be executed without delay, the bailiff shall not provide the debtor with a time period for voluntary execution of the court judgment but notify in writing the date and time when compulsory execution of the court judgment shall be performed, for which notice the recipient shall sign or it shall be sent by registered mail.

(2) At the request of the bailiff during the time set by the bailiff for compulsory execution of the judgment the debtor has a duty to present the articles specified in the writ of execution which are to be handed over to the judgment creditor. The debtor and the judgment creditor have the right to invite not more than two witnesses to handing over of articles. The failure of witnesses to attend shall not stay execution of the judgment.

(3) If during compulsory execution of a court judgment the debtor fails to present the articles specified in the judgment which are to be handed over to the judgment creditor, refuses to disclose the location thereof and subsequent to inspection of the premises the articles are not found, the bailiff shall draw up a statement to this effect which shall be signed by the bailiff, the judgment creditor and the witnesses if such have participated. When a statement regarding non-existence of the property to be handed over to the judgment creditor has been drawn up the bailiff in conformity with provisions of this Law shall carry out compulsory execution activities to recover the amount specified in the court judgment (Section 196).

[31 October 2002]

Section 620. Consequences Resulting from a Failure to Execute a Judgment Imposing on a Debtor a Duty to Perform Certain Actions

(1) If there is a failure to execute a judgment which imposes on a debtor a duty to perform stipulated actions which are not connected with the providing of property or of an amount of money, a bailiff shall draw up a statement regarding failure to execute the judgment.

(2) If there are set out in the judgment the consequences of failure to execute the judgment provided for in Section 197, Paragraph two of this Law, the statement drawn up shall be sent to the district (city) court according to the place of execution in order that it take a decision regarding the application of the consequences set out in the judgment in connection with the fact that the debtor does not perform the stipulated actions.

(3) If the consequences of a failure to execute the judgment are not set out therein, the statement drawn up shall be sent to the court which rendered the judgment in the matter, and that court shall decide as to the issue regarding procedures for execution of the judgment in accordance with the provisions of Sections 206 and 438 of this Law.

(4) If a judgment which imposes on a debtor a duty to fulfil actions which may be fulfilled only by himself or herself (Section 197, Paragraph one) is not executed within the time period specified by

the court judgment, the statement drawn up shall be forwarded by the bailiff to the court according to the place of execution. The issue regarding failure to execute the judgment shall be decided at a court sitting. The judgment creditor and debtor shall be notified of the time and place of the sitting; however, failure of such persons to attend shall not impede the adjudication of the issue regarding the failure to execute the judgment. Where a debtor does not execute a judgment which imposes on the debtor a duty to fulfil actions which may only be fulfilled by the debtor himself or herself, within the time limit specified by the court, the court may impose a fine not exceeding two hundred and fifty lats on the debtor, stipulating a new time period for the execution of the judgment. The fine is recoverable from the debtor for payment into State revenues.

(5) If the debtor a second time and repeatedly violates the time period for the execution of the judgment, the court shall take measures provided for by Paragraph four of this Section anew. The court shall impose a fine in the amount of five hundred lats for a repeated failure to execute the judgment. Payment of the fine shall not release the debtor from the duty to fulfil actions provided for by the court judgment.

(6) If an employer does not execute a court judgment regarding reinstatement of a dismissed or transferred employee, the court, pursuant to the request of the employee, shall take a decision regarding remuneration for work for the entire period from the day the judgment is rendered until the day it is executed.

(7) An ancillary complaint may be submitted regarding the decision of the court.

Chapter 74.¹

Eviction of Persons and Removal of Property from Premises

[31 October 2002]

Section 620.¹ Proposal to Voluntarily Execute a Court Judgment

(1) A bailiff shall issue a proposal to voluntarily execute a court judgment and vacate premises in accordance with the procedures set out in Section 555 of this Law to each person of legal age who pursuant to the court judgment is to be evicted.

(2) In the proposal the bailiff shall also set out the date on which compulsory execution of the judgment shall take place if the debtor fails to execute it voluntarily.

[31 October 2002]

Section 620.² Eviction in the Presence of the Debtor

(1) A judgment creditor and a debtor have the right to invite to compulsory eviction not more than two witnesses each. A bailiff shall verify the identity of the witnesses and specify such persons in the statement. The failure of witnesses to attend shall not stay compulsory execution.

(2) The bailiff shall invite the debtor to clear the premises specified in the court judgment from property and to vacate such premises together with minor members of the family.

(3) If the debtor fails to fulfil the invitation of the bailiff, the bailiff shall inventorize and make appraisal of the property in conformity with the provisions of Sections 577 and 578 of this Law, as well as appoint a storer of the property, remove the property and transfer it for storage to the storer of the property pursuant to the statement.

(4) The bailiff shall issue one copy of the statement to the debtor.

(5) Subsequent to execution of the judgment the premises shall be transferred to the judgment creditor.

(6) If things which are subject to rapid deterioration have been inventorized, the bailiff shall sell such in accordance with provisions of Section 583 of this Law. The received money shall be

transferred for covering of execution of the judgment expenditures but the probable money surplus shall be paid to the debtor.

[31 October 2002]

Section 620.³ Eviction in the Absence of the Debtor

(1) If the debtor fails to appear at the time specified for eviction and there is no information regarding the reason for his or her absence or he or she has not appeared due to a justified reason, the bailiff shall postpone the eviction.

(2) If the debtor has repeatedly failed to appear for eviction at the time specified and has not notified the reason for his or her absence or has not appeared due to a reason which is not recognised as justified by the bailiff, the premises shall be opened by forcible means, in the presence of a police representative. The bailiff shall make a note in the statement regarding opening of premises by forcible means.

(3) Eviction shall be carried out in accordance with the procedures prescribed by Section 620.² of this Law.

(4) The debtor is entitled to receive one copy of the property inventory statement.

[31 October 2002]

Section 620.⁴ Actions with Debtor's Property

(1) A debtor has the right to receive the property transferred for storage within a period of one month, by paying execution of the judgment expenditures.

(2) If the debtor refuses to pay execution of the judgment expenditures, the bailiff shall detain debtor's property in the value required for covering execution of the judgment expenditures but transfer the remaining property to the debtor.

(3) The bailiff shall sell the detained property in accordance with the provisions of Chapter 71 of this Law.

(4) Money received from the sale of the property shall be transferred for covering of execution of the judgment expenditures but the probable money surplus shall be paid to the debtor. The bailiff shall notify the debtor of the sale of the property if he or she has information regarding the place of residence of the debtor.

(5) If the debtor fails to appear to receive the property transferred for storage within a period of one month, the bailiff shall sell it in accordance with the provisions of Chapter 71 of this Law.

(6) The bailiff shall destroy property which has no market value and which cannot be sold in the presence of witnesses, drawing up a statement to this effect.

[31 October 2002]

Chapter 74.²

Placing in Possession of Immovable Property

[31 October 2002]

Section 620.⁵ Proposal to Voluntarily Execute a Court Adjudication

(1) A bailiff shall issue a proposal to voluntarily vacate immovable property and to transfer it to the acquirer in accordance with the procedures set out in Section 555 of this Law to a person from whose possession immovable property is to be removed (debtor).

(2) In the proposal the bailiff shall also set out the date on which placing of the acquirer in possession of immovable property shall take place if the debtor fails to execute the proposal voluntarily.

(3) Placing in possession shall also take place if the acquirer has not yet fixed the ownership rights in the Land Register.

[31 October 2002]

Section 620.⁶ Placing in Possession of Immovable Property in the Presence of the Debtor

(1) A bailiff shall carry out placing in possession of immovable property in the presence of the acquirer of the immovable property and the debtor or his or her family member of legal age. These persons have the right to invite not more than two witnesses each. The bailiff shall verify the identity of witnesses and specify these persons in the statement. The failure of witnesses to attend shall not stay compulsory execution.

(2) The bailiff shall invite the debtor to clear the immovable property from the property owned by him or her and to vacate the immovable property together with the family members and other persons living together with his or her family.

(3) If the invitation of the bailiff is not fulfilled, the bailiff shall inventorize and make appraisal of the property in conformity with the provisions of Sections 577 and 578 of this Law, as well as appoint a storer of the property, remove the property and transfer it for storage to the storer of the property pursuant to the inventory statement. Movable property belonging to the immovable property shall not be included in this inventory statement and shall not be removed.

(4) The bailiff shall issue one copy of the statement to the person from whose possession the immovable property is removed.

(5) The bailiff shall draw up a separate statement regarding the immovable property to be transferred to the acquirer which shall specify the state of the immovable property and movable property belonging thereto, which shall be transferred to the acquirer.

(6) If things which are subject to rapid deterioration have been inventorized and removed, the bailiff shall sell such in accordance with the provisions of Section 583 of this Law. The received money shall be transferred for covering of execution of the judgment expenditures but the probable money surplus shall be paid to the debtor.

[31 October 2002]

Section 620.⁷ Placing in Possession of Immovable Property in the Absence of the Debtor

(1) If the debtor fails to appear at the time specified for placing in possession of immovable property and there is no information regarding the reason for his or her absence or he or she has not appeared due to a justified reason, the bailiff shall postpone placing in possession.

(2) If the debtor has repeatedly failed to appear for placing in possession of immovable property at the time specified and has not notified the reason for his or her absence or has not appeared due to a reason which is not recognised as justified by the bailiff, the buildings shall be opened by forcible means, in the presence of a police representative and two witnesses. The bailiff shall make a note in the statement regarding opening of buildings by forcible means.

(3) Placing in possession of immovable property shall be carried out in accordance with the provisions of Section 620.⁶ of this Law.

(4) The debtor is entitled to receive one copy of the property inventory statement.

[31 October 2002]

Section 620.⁸ Disputes and Complaints in Connection with Placing in Possession of Immovable Property

(1) Objections of the possessor whose immovable property has been transferred to the acquirer, as well as objections of third persons against the transfer of the immovable property acquired at auction shall not stay placing in possession. The former possessor and third persons may prove their rights only by bringing an action at court.

(2) A complaint, which is submitted to a court by a third person who is in possession of the immovable property to be transferred, shall stay placing in possession until adjudication of the complaint. Satisfaction of the complaint does not impede the acquirer of the immovable property to bring an action in accordance with general procedures against the possessor of the immovable property.

[31 October 2002]

Chapter 75

Apportionment Between Judgment Creditors of Amounts Recovered

Section 621. Issue of Recovered Amounts to Judgment Creditors

(1) Execution of a judgment expenditures shall firstly be covered from the amount recovered by a bailiff from a debtor; claims of judgment creditors shall be satisfied from the balance of the amount. The amount remaining after satisfaction of all of the claims shall be returned to the debtor.

(2) Amounts, which are recovered from a debtor and are to be provided to a judgment creditor shall be paid into the bailiff's deposit account, but subsequently shall be delivered or transferred in accordance with prescribed procedures.

(3) A bailiff shall pay amounts, which are to be paid in to State revenue, into a budget account of the State Treasury.

(4) Amounts recovered for the benefit of a person who is a foreign resident shall be transferred to the judgment creditor in accordance with prescribed procedures.

(5) Persons who have execution documents in other matters may join in the recovery by submitting the execution document to the bailiff until the day of auction of the property or until the day when the property is transferred to a trading undertaking for sale pursuant to terms regarding commission.

[31 October 2001]

Section 622. Order of Satisfaction of Claims of Judgment Creditors

(1) If an amount recovered from a debtor does not suffice to satisfy all the claims pursuant to the execution documents, such amount shall be apportioned between the judgment creditors in accordance with the order prescribed by this Law unless a specific law prescribes priority for certain judgment creditors.

(2) Claims of every next order shall be satisfied after full satisfaction of claims of the previous order.

(3) If an amount collected does not suffice to satisfy all the claims of one order in full, such claims shall be satisfied in proportion to the amount, which is due to each judgment creditor.

Section 623. First Order of Recovery

(1) The following shall be satisfied first of all:

1) claims regarding recovery of means of support;

2) claims regarding recovery of remuneration for work; and
3) claims arising from personal injuries which have resulted in mutilation or other injury to health, or in the death of a person.

(2) If means of support is paid in accordance with a decision of the Means of Support Guarantee Fund administration and the amount of means of support recovered:

1) does not ensure the minimal amount of means of support which, based upon Section 179, Paragraph five of the Civil Law, has been specified by the Cabinet, the recovered means of support shall be paid into the Means of Support Guarantee Fund; and

2) ensures the minimal amount of means of support which, based upon Section 179, Paragraph five of the Civil Law, has been specified by the Cabinet, then means of support in such amount as based upon Section 179, Paragraph five of the Civil Law has been specified by the Cabinet, shall be paid out to the submitter, but the surplus amount shall be paid into the Means of Support Guarantee Fund until the debt is discharged in full.

[17 June 2004]

Section 624. Second Order of Recovery

Claims regarding taxes and non-tax payments into the budget shall be satisfied in the second order.

Section 625. Third Order of Recovery

Claims of natural persons regarding compensation for such losses as have been caused to their property by a criminal act or administrative violation shall be satisfied in the third order.

Section 626. Fourth Order of Recovery

All other claims shall be satisfied in the fourth order.

Section 627. Apportionment of Money Received from Sale of Movable Property Encumbered by a Pledge

Firstly, costs of execution of a judgment shall be covered from the money which has been received from the sale of movable property encumbered by a pledge and thereafter, claims shall be satisfied in the following order:

- 1) claims secured by a pledge; and
- 2) other claims in accordance with the order prescribed by this Law.

Section 628. Apportionment of Money Received from Sale of Immovable Property Encumbered by a Pledge

(1) From the money which has been received from the sale of immovable property encumbered by a pledge, there shall firstly be covered the costs of execution of the judgment as is connected with the sale of such property, and thereafter claims shall be satisfied in the following order:

- 1) those claims of employees regarding payment of salaries which are related to the maintenance of the immovable property and social insurance payments related to their salaries;
- 2) claims regarding tax payments which are payable regarding such immovable property;
- 3) real charges entered in the Land Register which have come due;

4) claims secured by a pledge on such immovable property according to the rights of priority thereof; and

5) other claims in accordance with the procedures provided for by this Law.

(2) In satisfying mortgage claims according to the rights of priority thereof, the accessory claims thereof shall also be satisfied and together therewith - interest for the last three years up to the day of auction, court costs adjudged and costs related to the conducting of the court proceeding.

(3) If immovable property has been sold by auction in respect of which an entry regarding the right of pledge has been made in the Land Register, money in the amount of the claim in conformity with the claim priority shall be transferred to the bailiff's deposit account and stored until adjudication of the ensured claim at the court.

[31 October 2002]

Section 629. Apportionment of Money Received from Sale of a Ship

From the amount received from the sale of a ship, the costs of execution of the judgment and other claims shall be satisfied taking into account Section 56, Paragraph two of the Maritime Code.

[19 June 2003]

Section 630. Order of Recovery in Cases where Property of a Debtor is Confiscated Pursuant to a Judgment in a Criminal Matter

(1) In executing a judgment regarding confiscation of property in a criminal matter, a bailiff shall transfer the property of a debtor to financial institutions after satisfaction of all the claims submitted as against the debtor which have arisen before the arrest of the property of the convicted person or attachment of it by preliminary investigation agencies or court.

(2) Claims regarding means of support and claims arising from personal injuries which have resulted in mutilation or other injury to health, or in the death of a person, shall also be satisfied if they have arisen after arrest is imposed or an attachment placed upon the property of the convicted person.

[31 October 2002]

Section 631. Calculation Drawn up by a Bailiff

(1) If a court has found that a judgment creditor has the right to receive interest on the amount adjudged until the execution of the judgment (the day of an auction) or if the duty to pay interest is specified in another law, a bailiff shall draw up a calculation of the total amount to be paid to the judgment creditor.

(2) If there are several judgment creditors and the amount recovered from a debtor does not suffice to satisfy all the claims in full, the bailiff shall make a calculation of the apportionment of the money between the judgment creditors and issue it to the judgment creditors and the debtor.

(3) If an auction of immovable property has been announced as not having taken place and a creditor has expressed his or her wish to retain the immovable property for himself or herself at the initial auction price, the bailiff shall draw up a calculation in order to determine the amount due from the creditor and apportion it between the judgment creditors.

(4) A calculation drawn up by a bailiff may be appealed to the district (city) court according to the bailiff's official appointment location. An ancillary complaint may be submitted regarding the court decision.

[17 June 2004]

Chapter 76

Protection of Rights of Judgment Creditors, Debtors and Other Persons in Execution of a Court Judgment

Section 632. Appeal of Actions of a Bailiff

(1) A judgment creditor or a debtor may appeal the actions of a bailiff in executing a judgment or the bailiff's refusal to perform such actions to the district (city) court according to the official appointment location of the bailiff within 10 days from the day when the actions appealed from are taken or the day when a complainant, who has not been notified of the time and place of actions to be taken, becomes informed of such actions.

(2) A complaint shall be adjudicated at a court sitting within 15 days. A debtor and a judgment creditor, as well as the bailiff, shall be notified of the court sitting. The failure of such persons to attend is not an impediment to the adjudicating of the issue.

(3) On the basis of a petition from the submitter of a complaint, a judge according to the procedures specified in Section 140 of this Law, may take a decision regarding a stay of execution activities, regarding a prohibition to transfer money to a bailiff or judgment creditor or debtor or the suspension of the sale of property. The decision shall be implemented without delay after it has been taken.

(4) An ancillary complaint may be submitted regarding the court decision.

[31 October 2002; 19 June 2003]

Section 633. Protection of Rights of Other Persons in Execution of an Adjudication

(1) A person who considers that he or she has any right to the inventorized movable property or immovable property against which recovery is directed or a part thereof, shall bring an action in court in accordance with general jurisdiction over matters.

(2) Claims for exclusion of property from an inventory statement, deletion of an entry in the Land Register regarding recovery or another claim shall be submitted against the debtor and the judgment creditor. If the property is inventorized on the basis of a judgment in a criminal matter in the part regarding property confiscation, the convicted person and the financial institution shall be summoned as defendants.

(3) If the property has already been sold, a claim shall also be submitted against the persons to which the property was handed over. If the court satisfies a claim regarding immovable property, the entry in the Land Register regarding transfer of ownership rights to the acquirer thereof shall be declared invalid.

(4) If the claim for return of the already sold property in specie is satisfied, disputes among the acquirer of the property, the judgment creditor and the debtor shall be adjudicated by a court in accordance with the procedures applicable to actions.

[31 October 2002]

Section 634. Reversal of Execution of a Judgment

(1) If an executed judgement is set aside and, upon re-adjudication of the matter, a judgment is rendered dismissing the claim or a decision is taken to terminate court proceedings in the matter or to leave the matter unadjudicated, there shall be returned to the defendant everything which has been recovered from the defendant for the benefit of the plaintiff pursuant to the judgment set aside (reversal of execution of a judgment).

(2) If it is impossible to return the property in specie, the court judgment or decision shall provide for compensation for the value of such property.

Section 635. Decision on Issue regarding Reversal of Execution of a Judgment

(1) A court to which a matter has been referred for re-adjudication shall, on its own initiative, adjudicate the issue regarding the reversal of execution of the judgment and decide it in the new judgment or decision by which court proceedings in the matter are terminated.

(2) If a court, which re-adjudicates a matter, has not decided the matter regarding reversal of the execution of the judgment set aside, the defendant has the right to submit to such court an application for the reversal of execution of the judgment. Such application shall be adjudicated at a court sitting upon prior notice to the participants in the matter. The failure of such persons to attend is not an impediment to the adjudicating of the application.

(3) A cassation instance court, if by its judgment it varies a judgment which has been appealed (protested), sets it aside and terminates court proceedings in a matter or leaves an application unadjudicated, shall decide the issue regarding reversal of execution of the judgment or assign the deciding thereof to the court whose judgment has been appealed.

(4) If a court of appellate instance dismisses a claim in a matter in which a court of first instance in accordance with Section 205 of this Law has permitted immediate execution of a judgment, or court proceedings in such matter are terminated or a claim is left unadjudicated, it shall, together therewith, decide the issue regarding the reversal of execution of the judgment.

(5) If a judgment is set aside in connection with newly-discovered facts, an issue regarding reversal of execution of the judgment shall be decided by the court which upon setting aside of the judgment re-adjudicates the matter.

(6) Reversal of execution of a judgment shall be allowed in matters regarding recovery of means of support, recovery of remuneration for work, recovery of losses arising from personal injuries resulting in mutilation or other injury to health, or in the death of a person, if the judgment set aside was based on false information furnished by or forged documents submitted by the plaintiff.

(7) An ancillary complaint may be submitted in regard to a court judgment respecting an issue regarding reversal of execution of a judgment.

Part F International Civil Procedure

[7 April 2004]

Division Fifteen International Civil Procedural Co-operation

[7 April 2004]

Chapter 77 Recognition and Execution of an Adjudication of a Foreign Court

Section 636. Adjudication of a Foreign Court

(1) An adjudication of a foreign court within the meaning of this Chapter is a judgment made by a foreign court, in which the issue of dispute between the parties has been adjudicated according to substance, as well as an approved amicable settlement of a foreign court.

(2) An adjudication of a foreign court within the meaning of this Chapter is also an adjudication of a foreign competent institution, which is to be executed in the state that made it if the recognition of

the adjudication and execution arises from directly applicable European Union legal norms or international agreements binding upon the Republic of Latvia.

[7 April 2004; 7 September 2006]

Section 637. Recognition of Adjudications of Foreign Courts

(1) Recognition of adjudications of foreign courts shall take place in accordance with the general provisions of this Chapter.

(2) An adjudication of a foreign court shall not be recognised only if one of the following bases for non-recognition exists:

1) the foreign court, which made the adjudication, was not competent in accordance with Latvian law to adjudicate the dispute or such dispute is an exception jurisdiction of the Latvian courts;

2) the adjudication of the foreign court has not come into legal effect;

3) the defendant was denied a possibility of defending his or her rights, especially if the defendant who has not participated in the adjudication of the matter was not in a timely and proper manner notified regarding appearing in court, except if the defendant has not appealed such adjudication even though he or she had the possibility to do so;

4) the adjudication of the foreign court is not compatible with a court adjudication already made earlier and entered into legal effect in Latvia in the same dispute between the same parties or with already earlier commenced court proceedings between the same parties in a Latvian court;

5) the adjudication of the foreign court is not compatible with such already earlier made and entered into legal effect adjudication of another foreign court in the same dispute between the same parties, which may be recognised or is already recognised in Latvia;

6) the recognition of the adjudication of the foreign court is in conflict with the public structure of Latvia; or

7) in the making the adjudication of the foreign court, the law of such state was not applied as should have been applied in conformity with Latvian international private law conflict of law norms.

(3) In foreign court adjudication matters, which arise from custody, guardianship and access rights, shall not be recognised only if there exists at least one of the non-recognition bases referred to in Paragraph two, Clauses 1, 2, 3, 6 and 7 of this Section or one of the following non-recognition bases:

1) the adjudication of the foreign court is not compatible with a court adjudication made later and entered into legal effect in Latvia in the same dispute between the same parties or with later commenced court proceedings between the same parties in a Latvian court; or

2) the adjudication of the foreign court is not compatible with a later made and entered into legal effect adjudication of another foreign court in the same dispute between the same parties, which may be recognised or is already recognised in Latvia.

(4) In deciding an issue regarding whether in conformity with the provisions of Paragraph two of this Section an adjudication of a court is to be recognised, the judge or court shall be guided by the circumstances, which are established by the adjudication of the foreign court.

(5) If with an adjudication of the foreign court several combined claims in one claim are satisfied and such adjudication is not to be recognised in full, the adjudication of the foreign court may be recognised in relation to one or more of the satisfied claims.

[7 April 2004; 7 September 2006]

Section 638. Submission of an Application

(1) An application for the recognition or recognition and execution of an adjudication of a foreign court shall be submitted for adjudication to a district (city) court on the basis of the place of execution of the adjudication or also on the basis of the place of residence of the defendant or location (legal address).

(2) An application shall indicate:

- 1) the name of the court to which an application is submitted;
- 2) the given name, surname, personal identity number (if there is none such, then other identification data) and place of residence of the applicant and defendant, but for a legal person – its name, registration number and location (legal address);
- 3) the object of the application and the circumstances upon which the application is based;
- 4) the petition of the applicant to recognise or recognise and execute the adjudication of a foreign court in full or any of its parts;
- 5) the authorised representative and his or her address if for the conduct of the matter in Latvia a representative has been appointed;
- 6) a list of the documents appended; and
- 7) the time of completing the application.

(3) An application shall have appended:

- 1) an adjudication of a foreign court with a statement certifying that the adjudication has come into legal effect, or a properly certified true copy of the adjudication;
- 2) a document issued by a foreign court which certifies that the defendant, who has not participated in the adjudication of the matter, was notified of the time and place of the adjudication of the matter in a timely and proper manner;
- 3) a document issued by a foreign court or a competent authority regarding the execution of the adjudication if the adjudication of the foreign court is already partially executed;
- 4) a document issued by a foreign court, which certifies that the foreign court adjudication is to be executed in the state wherein it was made if the applicant requests the recognition and execution of the foreign court adjudication;
- 5) the application and a certified translation into the official language according to specified procedures of the documents referred to in Clauses 1-3 of this Paragraph; and
- 6) a document, which certifies the payment of the State fee according to the procedures and in the amount specified by law.

(4) The applicant or his or her representative shall sign the application. If the application has been signed by the representative, to the application shall be appended the authorisation or another document, which certifies the authorisation of the representative to apply to the court with an application.

[7 April 2004; 2 September 2004; 7 September 2006]

Section 639. Application Left not Proceeded With

If an application does not conform to the requirements of Section 638, Paragraphs two, three and four of this Law, a judge shall leave the application not proceeded with and the consequences provided for in Section 133 of this Law shall come into effect.

[7 April 2004]

Section 640. Adjudication of Applications

A decision regarding the recognition and execution of an adjudication of a foreign court or a decision regarding the refusal of the application shall be taken by a judge sitting alone on the basis of the submitted application and the documents appended thereto within a period of 10 days from the day of submission of the application without inviting the parties.

[7 April 2004]

Section 641. Appeal of Decisions of First Instance and Appellate Courts

(1) In respect of a decision by a first instance court in an adjudication of a foreign court recognition matter, an ancillary complaint to the regional court may be submitted, and a decision by the regional court in respect of an ancillary complaint may be appealed to the Senate by submitting an ancillary complaint.]

(2) A participant in the matter whose place of residence or location is in Latvia, may submit the complaints referred to in Paragraph one of this Section within a period of 30 days from the day of receipt of the true copy of the decision, but a participant in the matter whose place of residence or location is not in Latvia – within a period of 60 days from the day of receipt of the true copy of the decision.

[7 April 2004]

Section 642. Competence of Regional Courts and the Senate

(1) A regional court and the Senate in adjudicating an ancillary complaint have the right to:

- 1) leave the decision unamended, and reject the complaint;
- 2) set aside the decision fully or a part thereof and decide the issue of the recognition of the adjudication of the foreign court; or
- 3) amend the decision.

(2) A court may request from the parties, explanations or also additional information from the foreign court that had made the adjudication.

(3) A court on the basis of a petition from the defendant may suspend the court proceedings if the adjudication of the foreign court has been appealed according to general procedures or also the time period for such appeal has not ended. In the second case, the court may specify a time period within which a complaint to appeal the adjudication of the foreign court shall be submitted in the relevant foreign state.

[7 April 2004]

Section 643. Ensuring Execution of a Foreign Court Adjudication

(1) On the basis of an application from the applicant, a judge's or court decision with which an adjudication of the foreign court is recognised, may specify the measures provided for in Section 138 of this Law to ensure the execution of the adjudication of the foreign court.

(2) The submission of the ancillary complaints referred to in Section 641, Paragraph one of this Law shall not stop the execution of the judge's or court's decision in the part regarding ensuring the execution of the adjudication of the foreign court. The submission of ancillary complaint in respect of such a decision in an adjudication of the foreign court matter as which the ensuring of the execution of the adjudication of the foreign court is set aside or the means of security is changed, shall stop the execution of the decision in this part.

[7 April 2004; 7 September 2006]

Section 644. Execution of an Adjudication of a Foreign Court

- (1) An adjudication of a foreign court, which is to be executed in the state wherein it was made, after its recognition shall be executed according to the procedures specified in this Law.
 - (2) In relation to the procedures for the proclamation of the execution of a judgment, which are provided for in Council Regulation No. 44/2001 and Council Regulation No. 2201/2003, the provisions of Chapter 77 of this Law regarding the recognition of adjudications of foreign courts shall be applied insofar as such is allowed by the provisions of the relevant regulation.
 - (3) In the cases, which are provided for in Council Regulation No. 2201/2003 and European Parliament and Council Regulation No. 805/2004, an adjudication of the foreign court shall be executed according to the procedures specified in this Law, without requesting recognition of the adjudication of the foreign court, as well as the proclamation of the execution of the adjudication of the foreign court.
 - (4) Expenditures associated with the execution of an adjudication of the foreign court shall be covered according to general procedures.
- [7 April 2004; 7 September 2006]*

Section 644.¹ Staying, Division into Time Periods, and Amendment of the Way or Procedures of the Execution of an Adjudication of the Foreign Court

- (1) A court, which has taken a decision regarding the recognition and execution of an adjudication of a foreign court, on the basis of an application by a participant in the matter may stay the execution of the adjudication of the foreign court, divide the execution into time periods, and amend the way or procedures of execution.
 - (2) An application shall be adjudicated in a court sitting, previously notifying the participants in the matter regarding this. The non-attendance of such persons shall not be an obstacle to adjudicate the application.
 - (3) An ancillary complaint may be submitted in respect of a decision by the court to stay or divide into time periods the execution of the judgment, as well as to amend the way or procedures of execution.
- [7 September 2006]*

Section 644.² Issues of Execution associated with European Union Execution Documents

- (1) A district (city) court in the territory of which the adjudication of the foreign court, which has been approved as a European Enforcement Order in accordance with Article 23 of European Parliament and Council Regulation No. 805/2004 is to be executed, on the basis of the receipt of an application from the debtor may:
 - 1) replace the execution of the adjudication with the measures for ensuring the execution of such adjudication provided for in Section 138 of this Law;
 - 2) amend the way or procedures for the execution of the adjudication; or
 - 3) suspend the execution of the adjudication.
- (2) A district (city) court in the territory of which the adjudication of the foreign court is to be executed, in respect of which a certificate referred to in Article 41, Paragraph 1 of Council Regulation No. 2201/2003 has been issued, on the basis of the receipt of an application from a participant in the matter based upon Article 48 of the referred to regulation, may take a decision regarding the performance of practical execution measures.

(3) The applications referred to in Paragraphs one and two of this section shall be adjudicated in a court sitting, previously notifying the participants in the matter regarding this. The non-attendance of such persons shall not be an obstacle to adjudicate the application.

(4) An ancillary complaint may be submitted in respect of a decision by the court.

[7 September 2006]

Section 644.³ Refusal of Execution of an Adjudication of a Foreign Court

(1) A district (city) court in the territory of which the adjudication of the foreign court, which has been approved as a European Enforcement Order in accordance with Article 21 of European Parliament and Council Regulation No. 805/2004 is to be executed, on the basis of the receipt of an application from the debtor may refuse the execution of the adjudication.

(2) A district (city) court in the territory of which the adjudication of the foreign court is to be executed, in respect of which a certificate referred to in Article 41, Paragraph 1 or Article 42, Paragraph 1 of Council Regulation No. 2201/2003 has been issued, on the basis of the receipt of an application from a participant in the matter based upon Article 47 of the referred to regulation, may refuse the execution of the adjudication.

(3) The applications referred to in Paragraphs one and two of this section shall be adjudicated in a court sitting, previously notifying the participants in the matter regarding this. The non-attendance of such persons shall not be an obstacle to adjudicate the application.

(4) An ancillary complaint may be submitted in respect of a decision by the court.

[7 September 2006]

Section 644.⁴ Submission of Applications regarding the Staying, Division into Time Periods, Amendment of the Way or Procedures, and Refusal of the Execution of an Adjudication of the Foreign Court and European Union Execution Documents

(1) The applications referred to in Sections 644.¹, 644.² and 644.³ of this Law shall indicate:

1) the name of the court in which the application is submitted;

2) the given name, surname, personal identity number (if such does not exist, then other identification data) and place of residence of the applicant and defendant (judgment creditor), but for a legal person – its name, registration number and location (legal address);

3) the subject-matter of the application and circumstances upon which the application is based;

4) the request of the applicant;

5) the authorised representative and his or her address if a representative in Latvia has been appointed for the conduct of the matter;

6) the list of appended documents; and

7) the period of drawing up of the application.

(2) The following shall be appended to the application:

1) a properly certified true copy of the adjudication of the foreign court;

2) in relevant cases – a properly certified true copy of the issued European Enforcement Order or the certificate referred to in Article 41, Paragraph 1 of Council Regulation No. 2201/2003;

3) other documents upon which the applicant's application is based; and

4) the application and a certified translation into the official language according to specified procedures of the documents referred to in Clauses 1, 2 and 3 of this Paragraph.

(3) The application shall be signed by the applicant or the representative thereof. If the application has been signed by the representative of the applicant, an authorisation or other document shall be appended to the application, which certifies authorisation to submit the application.

[7 September 2006]

Section 644.5 Leaving a Submitted Application regarding the Staying, Division into Time Periods, Amendment of the Way or Procedures, and Refusal of the Execution of an Adjudication of the Foreign Court – European Union Execution Documents – Not Proceeded With

If the in accordance with Section 644.¹, 644.² or 644.³ of this Law submitted application does not conform to the requirements of Section 644.⁴ of this Law, the judge shall leave the application not proceeded with and the consequences provided for in Section 133 of this Law shall come into effect.

[7 September 2006]

Chapter 77.¹

Matters regarding the Unlawful Movement of Children across Borders to a Foreign State or Detention in a Foreign State

Section 644.⁶ Procedures for Adjudicating Matters

Matters regarding the unlawful movement of a child across borders to a foreign state or detention in a foreign state if the place of residence of the child is in Latvia shall be adjudicated in accordance with the provisions of this Chapter, taking into account the general provisions of this Law.

[7 September 2006]

Section 644.⁷ Applications for the Issuance of a Request to a Foreign State for the Return of a Child to Latvia

(1) In order to ensure the return to Latvia of such a child whose place of residence is Latvia and who has been unlawfully moved to another state, the person whose right to implement custody or guardianship has been violated, as well as an Orphan's Court or a public prosecutor may submit an application to a court regarding the issuance of a request to a foreign state regarding the return of the child to Latvia.

(2) An application shall be submitted to a district (city) court on the basis of the place of residence of the applicant or the place of residence of the child in which he or she lived prior to the unlawful movement or detention.

(3) The application shall indicate:

1) the name of the court in which the application is submitted;

2) the given name, surname, personal identity number (if such does not exist, then other identification data) and place of residence of the applicant;

3) the given name, surname, personal identity number (if such does not exist, then other identification data) of the unlawfully moved or detained child and other information regarding the child, as well as information regarding the possible whereabouts of the child and the identity of the person with whom the child may be found;

4) the given name, surname, personal identity number (if such does not exist, then other identification data) and place of residence of the defendant or information regarding his or her whereabouts;

5) the circumstances, which certify the custody or guardianship rights of the applicant;

6) the circumstances, which certify the fact of the unlawful movement or detention of the child and civil law aspects;

7) the request of the applicant;

8) the list of appended documents; and

9) the period of drawing up of the application.

(4) The application shall have appended the documents upon which it is based.

(5) The application shall be signed by the applicant or the representative thereof. If the application has been signed by the representative of the applicant, an authorisation or other document shall be appended to the application, which certifies authorisation to submit the application.

[7 September 2006]

Section 644.⁸ Leaving the Application Not proceeded With

If the application does not conform to the requirements of Section 644.⁷, Paragraphs three, four and five of this Law, the court shall leave the application not proceeded with and the consequences provided for in Section 133 of this Law shall come into effect.

[7 September 2006]

Section 644.⁹ Adjudication of the Application

(1) A court shall adjudicate an application in a court sitting in which shall participate the submitter of the application and the representative of the relevant Orphan's Court.

(2) The defendant shall be notified of the court sitting if his or her address is known. The non-attendance of such persons shall not be an obstacle to adjudicate the application.

(3) If the court determines that the child has been unlawfully moved to another state or detained in another state, it shall take a decision regarding the issuance of a request to a foreign state regarding the return of the child to Latvia.

(4) In adjudicating the application, the court on its own initiative shall request evidence.

(5) The decision regarding the issuance of a request to a foreign state shall be executed without delay.

(6) An ancillary complaint may be submitted in respect of a decision by the court.

[7 September 2006]

Section 644.¹⁰ Competence of the Regional Court

(1) A regional court in adjudicating an ancillary complaint has the right to:

1) leave the decision unamended, but reject the complaint; or

2) revoke the decision and decide the issue according to substance.

(2) A decision shall come into effect and shall be executed without delay.

[7 September 2006]

Section 644.¹¹ Actions after the Taking of a Decision

(1) A true copy of the decision taken by a court regarding a request to a foreign state regarding the return of the child to Latvia shall be submitted to the Ministry of Children and Family Affairs.

(2) If a true copy of the decision regarding a request to a foreign state regarding the return of the child to Latvia is to be submitted to a state, which is not a contracting state to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction or the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, the court in order that the referred to decision be recognised and executed in the foreign state shall submit it to the Ministry of Justice.

(3) A court on its own initiative or that of the relevant ministry referred to in Paragraph one or two of this Section shall append to the court documents information regarding the provisions of the Latvian regulatory enactments.

[7 September 2006]

Section 644.¹² Consequences of Adjudication by a Foreign Court or Competent Institution regarding Non-return of the Child

(1) An adjudication by a foreign court or competent institution regarding the non-return of a child and other documents shall be submitted to a court in Latvia through the mediation of the Ministry of Children and Family Affairs.

(2) The Ministry of Children and Family Affairs after receipt of the documents referred to in Paragraph one of this Section shall send them to a court according to the place of residence of the child or one or both parents or guardians, as well as informing the relevant Orphan's Court regarding the decision of the foreign court or competent institution.

[7 September 2006]

Chapter 77.²

Matters regarding the Unlawful Movement of Children across Borders to Latvia or Detention in Latvia

Section 644.¹³ Procedures for Adjudicating Matters

Matters regarding the unlawful movement of a child across borders to Latvia or detention in Latvia if the place of residence of the child is in another state shall be adjudicated in accordance with the provisions of this Chapter, taking into account the general provisions of this Law.

[7 September 2006]

Section 644.¹⁴ Jurisdiction regarding Matters

(1) An application for the return of a child to the state, which is his or her place of residence, shall be submitted to a district (city) court according to the location of the child or the place of residence or location of the person, who has illegally moved or detained the child.

(2) If the place of residence or location of the referred to person is not known, the application shall be submitted to the Rīga Central District Court.

[7 September 2006]

Section 644.¹⁵ Applications for the Return of a Child to the State, which is his or her place of residence

(1) In order to ensure the return to the state, which is his or her place of residence of such a child who has been unlawfully moved to Latvia or detained in Latvia, the person whose right to

implement custody or guardianship has been violated may submit an application to a court regarding the return of the child to the state, which is his or her place of residence if the relevant state is a contracting state to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction or the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

(2) The application referred to in Paragraph one of this Section may be submitted to a court also by competent institutions in order to apply the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children or Council Regulation No. 2201/2003.

(3) The application shall indicate:

1) the name of the court in which the application is submitted;

2) the given name, surname, personal identity number (if such does not exist, then other identification data) and place of residence of the applicant or information regarding his or her whereabouts;

3) the given name, surname, personal identity number (if such does not exist, then other identification data) of the unlawfully moved or detained child and other information regarding the child, as well as information regarding the possible whereabouts of the child and the identity of the person with whom the child may be found;

4) the given name, surname, personal identity number (if such does not exist, then other identification data) and place of residence of the defendant or information regarding his or her whereabouts;

5) the circumstances, which certify the custody or guardianship rights of the applicant to the child;

6) the circumstances, which certify the fact of the unlawful movement or detention of the child and civil law aspects;

7) the request of the applicant;

8) the list of appended documents; and

9) the period of drawing up of the application.

(4) The application shall have appended:

1) the documents upon which it is based;

2) certified information from the relevant competent institution regarding legal regulations in the state, which is the place of residence of the child; and

3) the application and a certified translation into the official language according to specified procedures of the documents referred to in Clauses 1 and 2 of this Paragraph

(5) The application shall be signed by the applicant or the representative thereof. If the application has been signed by the representative of the applicant, an authorisation or other document shall be appended to the application, which certifies authorisation to submit the application.

[7 September 2006]

Section 644.¹⁶ Leaving the Application Not proceeded With

(1) If the application does not conform to the requirements of Section 644.¹⁵ of this Law, the court shall leave the application not proceeded with only in such case where the document or necessary information deficiency will significantly influence the possibility of adjudicating the application.

(2) If a court in conformity with Paragraph one of this Section leaves the application not proceeded with, the consequences provided for in Section 133 of this Law shall come into effect.

[7 September 2006]

Section 644.¹⁷ Searches for Defendant and Child

If the place of residence or whereabouts of the defendant or the unlawfully moved or detained child is not known, but there is a basis for believing that the child is located in Latvia, a judge on the basis of a request from interested parties shall take a decision regarding searches for the child or defendant with the assistance of the police.

[7 September 2006]

Section 644.¹⁸ Actions by a Court after the Initiation of a Matter

(1) A court shall notify the Ministry of Children and Family Affairs regarding the initiating of a matter. The Ministry of Children and Family Affairs shall inform the competent institutions, which are in the place of residence of the child of this in order to apply the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children or Council Regulation No. 2201/2003.

(2) If the application is based upon a decision taken by the relevant competent institution of the foreign state regarding the return of the child, the court may in addition directly inform also the relevant foreign competent institution, which has taken the decision regarding the return of the child to the relevant state.

[7 September 2006]

Section 644.¹⁹ Adjudication of the Application

(1) A court shall adjudicate an application in a court sitting in which shall participate the parties. The court sitting shall invite a representative of the Orphan's Court, as well as ascertain the point of view of the child if he or she can formulate it.

(2) If the defendant, without justified cause, fails to attend pursuant to a court summons, he or she may be brought to court by forced conveyance.

(3) If one of the parties lives far or due to other reasons cannot attend pursuant to a court summons, the court may admit as sufficient for the adjudicating of the matter a written explanation by this party or the participation of a representative thereof.

(4) In adjudicating the application, the court on its own initiative shall request evidence. The court shall utilise the most appropriate procedural possibilities, as well as the quickest way of acquiring evidence in order that a decision may be taken within a period of six weeks after the submission of the application.

(5) If the court determines that the child has been unlawfully moved to Latvia or detained in Latvia, it shall take a decision regarding the return of the child to the state, which is his or her place of residence, in one of the following cases:

1) the time period after the unlawful movement of the child to Latvia or detention in Latvia does not exceed one year since the relevant person or institution has found out about the whereabouts of the child; or

2) the time period after the unlawful movement of the child to Latvia or detention in Latvia does exceeds one year, but the child has not adapted to life in Latvia.

(6) A court may take a decision regarding not returning the child to the state, which is his or her place of residence if it determines that the child has been unlawfully moved to Latvia or detained in Latvia and one of the following circumstances exists:

1) more than one year has passed since the relevant person has known or could have known regarding the whereabouts of the child, but in this time period he or she has not turned to the relevant institution about the issue of the return of the child to the state, which is his or her place of residence;

2) the child has adapted to life in Latvia and his or her return does not conform to the interests of the child.

(7) Paragraphs six and seven of this Section shall be applied insofar as the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and Council Regulation No. 2201/2003.

[7 September 2006]

Section 644.²⁰ Coming into Effect of Decisions and Appeals

(1) A decision regarding the return of a child to the state, which is his or her place of residence shall be executed without delay.

(2) An ancillary complaint may be submitted in respect of a decision by the court. The submission of an ancillary complaint shall not stop the execution of the decision.

(3) If the decision has been taken without the presence of a participant in the matter, the time period for the submission of an ancillary complaint shall be counted from the day when he or she received a true copy of the decision.

[7 September 2006]

Section 644.²¹ Competence of the Regional Court

(1) A regional court in adjudicating an ancillary complaint has the right to:

1) leave the decision unamended, but reject the complaint; or

2) revoke the decision and decide the issue according to substance.

(2) A decision shall come into effect and shall be executed without delay.

[7 September 2006]

Section 644.²² Actions after the Taking of a Decision

A true copy of the decision taken by a court regarding the non-return of the child to the state, which is his or her place of residence and other materials of the matter, shall be submitted to the Ministry of Children and Family Affairs.

[7 September 2006]

Chapter 78

Recognition and Execution of an Adjudication of a Foreign Arbitration Court

[7 April 2004]

Section 645. An Adjudication of a Foreign Arbitration Court

An adjudication of a foreign arbitration court is a binding adjudication made by a foreign arbitration court irrespective of its designation.

[7 April 2004]

Section 646. Recognition of Adjudications of Foreign Arbitration Courts

Recognition of adjudications of foreign arbitration courts shall take place in accordance with this Law and international agreements that are binding for the Republic of Latvia.

[7 April 2004]

Section 647. Submission of an Application

(1) An application for the recognition and execution of an adjudication of a foreign arbitration court shall be submitted for adjudication to a district (city) court on the basis of the place of execution of the adjudication or also on the basis of the place of residence of the defendant or location (legal address).

(2) An application shall indicate the information referred to in Section 638 of this Law.

(3) An application shall have appended:

1) the original of the adjudication of a foreign arbitration court or a properly certified true copy of the adjudication;

2) a document that certifies the written agreement of the parties regarding the transfer of the dispute for adjudication in the arbitration court;

3) the application and a certified translation into the official language according to specified procedures of the documents referred to in Clauses 1 and 2 of this Paragraph;

4) true copies of the application and the appended documents thereto for issuing to the parties; and

5) a document that certifies the payment of State fees in the amount and according to the procedures specified by law.

(4) The applicant or his or her representative shall sign the application. If the application has been signed by the representative, to the application shall be appended the authorisation or another document, which certifies the authorisation of the representative to apply to the court with an application.

[7 April 2004]

Section 648. Application Left not Proceeded With

If an application does not conform to the requirements of Section 647, Paragraphs two, three and four of this Law, a judge shall leave the application not proceeded with and the consequences provided for in Section 133 of this Law shall come into effect.

[7 April 2004]

Section 649. Adjudication of Applications

(1) An application for the recognition and execution of a foreign arbitration court adjudication shall be adjudicated at a court sitting, notifying the parties thereof beforehand. The failure of such persons to attend shall not impede the adjudication of the application.

(2) A court may request explanations from parties or also additional information from the foreign arbitration court, which rendered the adjudication.

(3) Having adjudicated an application for the recognition and execution of a foreign arbitration court adjudication, a court shall take a decision to recognise and execute the adjudication or to reject the application.

(4) An application shall only be dismissed in the cases provided for by international treaties binding upon the Republic of Latvia.

(5) An ancillary complaint may be submitted regarding the decision of the court.
[7 April 2004]

Section 650. Ensuring Execution of an Adjudication of a Foreign Arbitration Court

(1) On the basis of an application from the applicant, a court decision with which an adjudication of the foreign arbitration court is recognised, may specify the measures provided for in Section 138 of this Law to ensure the execution of the adjudication of the foreign arbitration court.

(2) The submission of the ancillary complaints referred to in Section 649, Paragraph five of this Law shall not stop the execution of the court decision in the part regarding ensuring the execution of the adjudication of the foreign arbitration court.

[7 April 2004; 7 September 2006]

Section 651. Execution of an Adjudication of a Foreign Arbitration Court

(1) An adjudication of a foreign arbitration court after its recognition shall be executed according to the procedures specified in this Law.

(2) Expenditures associated with the execution of an adjudication of the foreign arbitration court shall be covered according to general procedures if not specified otherwise in international agreements binding on the Republic of Latvia.

[7 April 2004]

Chapter 79 International Legal Co-operation

[7 April 2004]

Section 652. Requests for Legal Assistance

Courts shall execute requests from foreign courts for legal assistance (regarding the performance of procedural activities, regarding the sending of court and extrajudicial documents and others), as well as shall send to foreign courts such requests in accordance with international agreements binding on the Republic of Latvia, legal norms of the European Court of Justice and this Law.

[7 April 2004]

Section 653. Communication of Latvian Courts with Foreign Courts and Law Enforcement Institutions

The Latvian courts communicate with foreign courts and law enforcement institutions in accordance with laws, international agreements binding upon the Republic of Latvia and the legal norms of the European Union.

[7 April 2004]

Section 653.¹ Legal Co-operation in Matters regarding the Unlawful Movement of a Child across Borders or Detention

(1) If in this Law is not stated otherwise, in matters regarding the unlawful movement of a child across borders or detention, Latvian courts shall communicate directly with the relevant foreign courts or competent institutions or through the mediation of the Ministry of Children and Family

Affairs in cases where the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, or Council Regulation No. 2201/2003 is applicable in the involved states mutual relations.

(2) If in the involved states mutual relations the legal acts referred to in Paragraph one of this Section are not applicable, Latvian courts shall communicate with the relevant foreign courts or competent institutions through the mediation of the Ministry of Justice.

(3) The court documents shall be translated into the language, which has been specified as the language of communication in the application of the relevant legal act, or in the official language of the recipient of the documents, or in such language, which the relevant state has notified as being acceptable for communications, and shall be ensured by the relevant ministry referred to in Paragraph one or two of this Section.

(4) In order to apply the regulatory enactments referred to in Paragraph one of this Section, the foreign competent institution documents, the application of the person or other documents, which are to be submitted to the Ministry of Children and Family Affairs, in the relevant cases shall be drawn up in the original language with an appended translation in the official language, but if this is not possible, the documents may be submitted in English, then the translation shall be ensured by the Ministry of Children and Family Affairs.

[7 September 2006]

Chapter 80

Application of Foreign Laws to Adjudication of Civil Matters

[7 April 2004]

Section 654. Texts of Foreign Laws

In cases where foreign laws shall be applied, the participant in the matter who refers to the foreign law shall submit to the court a translation of the text in a certified translation into the official language according to specified procedures.

[7 April 2004]

Section 655. Ascertaining the Contents of Foreign Law

(1) In accordance with the specified procedures in international agreements binding on the Republic of Latvia, a court shall ascertain the contents of the foreign law to be applied.

(2) In other cases, a court through the intermediation of the Ministry of Justice and within the bounds of possibility shall ascertain the contents of the foreign law to be applied.

[7 April 2004]

Transitional Provisions

1. Procedures regarding the adjudicating of matters which arise from administrative legal relations shall, until the day when the Administrative Procedure Law comes into force, be regulated by general provisions of the Civil Procedure Law and the provisions of Chapters twenty-two, twenty-three, twenty-three A, twenty-four, twenty-four A and twenty-five of the Latvian Civil Procedure Code.

2. The provisions of Section 548, Paragraph two and Sections 550 and 632 of this Law are applicable only after the relevant amendments to the Law on Judicial Power come into force.

3. Until the day when the amendments to the Law on Judicial Power mentioned in Paragraph 2 of these Transitional Provisions come into force:

1) the correctness and promptness of the execution of court judgments shall be controlled by the Bailiffs Department of the Ministry of Justice;

2) a decision of the Senior Bailiff by which an application for the refusal of a bailiff has been dismissed without satisfaction may be appealed to the Bailiffs Department of the Ministry of Justice. Submission of a complaint does not stay execution activities;

3) a judgment creditor or a debtor may only submit complaints about activities of bailiffs or their refusal to carry out such activities to a court after the Bailiffs Department of the Ministry of Justice has examined the complaint. A complaint may be submitted within 10 days from the day the submitter of the complaint receives an answer from the Bailiffs Department of the Ministry of Justice or from the day when a period of one month has elapsed since the complaint has been submitted and the submitter has not received an answer thereto.

4. If immovable property has not been entered in the Land Register (apartment property in the cases provided for by law, in the Cadastral Register), in securing a claim or bringing recovery proceedings against it, the immovable property shall be inventorized and transferred for administration in accordance with the provisions of Section 603, Paragraphs two to four and Section 605 of this Law. Before inventorizing the immovable property, a bailiff shall ascertain the ownership thereof or who its possessor is by requesting information from the State Land Service or the appropriate local government. The bailiff shall notify the State Land Service or the local government accordingly of the inventorizing of the immovable property for the securing of the claim or recovery of the debt.

5. If on the day this Law comes into force the procedural time periods prescribed by the Latvian Civil Procedure Code in regards to execution activities regarding a judgment have not elapsed and this Law prescribes a longer time period, the longer time period is applicable, including the time elapsed.

6. If, by the day this Law comes into force, property has been delivered on commission in accordance with Section 390 of the Latvian Civil Procedure Code, its sale shall be carried out pursuant to terms of the commission agreement.

7. If, by the day this Law comes into force, capital shares or non-publicly issued stocks of a company have been delivered to the relevant company executive body in accordance with the provisions of Section 389, Paragraph three of the Latvian Civil Procedure Code, the executive body shall carry out the sale within the prescribed period of one month from the day of delivery.

8. If, by the day this Law comes into force, an auction of inventorized property belonging to a debtor has been advertised, it shall be conducted pursuant to the provisions advertised.

9. If, by the day this Law comes into force, calculations drawn up by a bailiff regarding costs of execution of a judgment have been submitted to a court, the court shall take a decision regarding the calculations previously drawn up by the bailiff.

10. If a bailiff has taken a decision to stay execution proceedings, then, in a matter where the Civil Procedure Law does not provide for execution proceedings to be stayed, upon the coming into force of this Law the execution proceedings shall be resumed without delay. The bailiff shall take an appropriate decision thereon and send it to the persons interested.

11. Upon this Law coming into force, the Latvian Civil Procedure Code is repealed, with the exception of Chapters twenty-two, twenty-three, twenty-three A, twenty-four, twenty-four A and twenty-five thereof.

12. Amendments to the Civil Procedure Law regarding deletion of Section 34, Paragraph two, Clause 1 and 2 and first sentence of Paragraph three, Section 39, Clause 8, Section 43, Clause 9, Chapters 40, 41, 42, 43, 44 and Section 566, Paragraph two shall come into force on 1 January 2009.

[31 October 2002; 1 December 2005]

13. Courts shall adjudicate matters regarding the rights of inheritance, which by 31 December 2002 have been accepted for adjudication in accordance with special adjudication procedures, and in accordance with the procedures set out in the Civil Procedure Law until 31 December 2008.

[31 October 2002; 1 December 2005]

14. Courts shall adjudicate applications regarding establishment of trusteeship for an estate in the inheritance matters which are in the record-keeping of notaries, by applying Section 323 of this Law and Section 660 of the Civil Law.

[31 October 2002]

15. Courts shall adjudicate applications regarding establishing the existence of an oral will which are required for submission to a notary in an inheritance matter in accordance with the procedures prescribed by Section 309 of this Law, by summoning heirs as interested parties.

[31 October 2002]

16. Until determination of a State fee for transfer of property to heirs on the basis of an inheritance certificate issued by a notary the State fee shall be paid in the amount of 50 per cent of the rate provided for in Section 34 of the Civil Procedure Law in matters regarding confirmation of the rights of inheritance or coming into legal effect of the last will instruction instrument. In the matters referred to the State fee in respect of immovable property shall be collected before entry of the ownership rights in the Land Register, but in respect of movable property it shall be paid before the issue of an inheritance certificate and the notary shall make a certification to this effect in the inheritance certificate. Holders of movable property registers, as well as persons who have the estate property in possession (credit institutions, etc) are not entitled to re-register the estate property or issue it to the heirs if the property is not specified in the inheritance certificate and State fee has not been paid.

[31 October 2001]

17. Section 346, Paragraph one, Clause 2 of this Law regarding the fact that the decision of a judge regarding the initiation of an insolvency matter shall be sent to the Finance and Capital Market Commission, and Section 378, Paragraph 2.¹ of this Law shall come into force with a special law.

[12 February 2004]

18. All applications regarding the recognition and execution of an adjudication of a foreign court (except adjudications of foreign arbitration courts), which are submitted to district (city) courts and have not been adjudicated up to 1 May 2004, shall be adjudicated according to the procedures of first instance courts that were in effect prior to 1 May 2004. On the basis of a petition from the applicant, the judge may decide such application according to the procedures specified in this Law, and the 10 day time period in respect of deciding an application shall count from the day of the submission of the petition from the applicant.

[7 April 2004]

19. If the district (city) court has taken a decision regarding the recognition and execution of an adjudication of a foreign court (except adjudications of foreign arbitration courts) or a decision to reject the application and on 1 May 2004 the time period for the submission of ancillary complaints has not ended, the time periods for the submission of ancillary complaints specified in Section 641, Paragraph two of this Law shall be applied, including in them the time already passed.

[7 April 2004]

20. The new version of Section 486 of this Law, which determines the procedures for the establishment of an arbitration court and Section 486.¹, shall come into force on 1 April 2005.

[17 February 2005]

21. An arbitration court, which has been established and regarding the establishment of which has been notified to the Ministry of Justice by 31 March 2005, shall not later than by 15 August 2005 submit an application to the Enterprise Register for the registration of an arbitration court, taking into account the procedures specified in this Law and other regulatory enactments.

[17 February 2005]

22. The ministry of Justice shall by 20 October 2005 publish in the *Latvijas Vēstnesis* those arbitration courts, which up to 30 September 2005 have not registered in the Enterprise Register.

[17 February 2005]

23. If the parties have agreed regarding the referral of a dispute for resolution in a permanent arbitration court and this arbitration court has not registered according to the procedures specified by law by 30 September 2005 or has terminated its operations, the parties shall agree regarding the transfer of the dispute to another arbitration court. If agreement cannot be reached, the dispute shall be adjudicated in a court.

[17 February 2005]

24. The name of newly established arbitration courts shall clearly and specifically differ from the names of the arbitration courts in the Ministry of Justice's existing list. Benefit of a right to the name of an arbitration court in the Arbitration Court Register shall belong to the arbitration court, which has been entered first with such a name in the Ministry of Justice's list.

[17 February 2005]

25. If up to 10 March 2005 arbitration court proceedings have been commenced in respect of the disputes referred to in Section 487, Clauses 6 and 7 of this Law (regarding the eviction of persons from living quarters and individual labour rights disputes), the resolution thereof shall be completed in the relevant arbitration court.

[17 February 2005]

26. Up to 30 June 2006, applications regarding the insolvency of undertakings and companies shall be submitted to the relevant regional court. Up to 30 June 2006, actions brought regarding the insolvency of undertakings and companies shall be adjudicated by the relevant regional court.

[1 December 2005]

27. The new version of Section 447 of this Law, which determines that an ancillary complaint regarding the decisions of a judge and regarding decisions of a Land Register office judge shall be adjudicated by written proceedings, shall come into force on 1 July 2006 and shall apply to the adjudication ancillary complaints regarding the decisions, which have been taken from 1 July 2006.

[25 May 2006]

28. Amendments to Section 238, Paragraph three; Section 239, Paragraph two; Section 246, Paragraph four; Section 250.⁵, Paragraph one; Section 266, Paragraph one; Section 267, Paragraph three; Section 268, Paragraph two; Section 270, Paragraphs one and three; Section 275, Paragraph two; Section 276, Paragraph two; Section 277, Paragraph two; Section 280, Paragraph two; Section 286, Paragraph four; Section 323 (regarding deletion of the words “parish court”) and Section 329, Paragraph three (regarding the replacement of the words “parish court” with the words “Orphan’s Court”) of this Law, shall come into force on 1 January 2007.

[7 September 2006]

Informative Reference to European Union Directives

Legal provisions arising from the following directives have been included in this Law:

- 1) Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions; and
- 2) Directive 2004/48/Ec of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

[7 September 2006; 14 December 2006]

This Law shall come into force on 1 March 1999.

This Law has been adopted by the *Saeima* on 14 October 1998.

President

G. Ulmanis

Rīga, 3 November 1998

**Transitional Provisions Regarding Amendments
to the Civil Procedure Law**

Transitional Provision
(regarding amending law of 1 December 2005)

Section 1 of this Law shall come into force on 1 July 2006.

Annex 1

Civil Procedure Law

List of Property against which Recovery may not be Directed Pursuant to Execution Documents

The following property and articles which belong to a debtor or constitute the debtor's part in joint property shall not be subject to the directing of recovery pursuant to execution documents:

1. Domestic equipment and household articles, and clothing required for the debtor, his or her family members and persons who are dependent on the debtor:
 - 1) clothing, footwear and underwear necessary for everyday wear;
 - 2) bedding, bedclothes and towels;
 - 3) kitchen utensils and tableware which are required for everyday use;
 - 4) furniture - one bed and chair for each person, as well as one table and one wardrobe per family; and
 - 5) all children's articles.
2. Foodstuffs in the home in the amount required for the maintenance of the debtor and his or her family members for a period of three months.
3. Money in the amount of the minimum monthly wage for the debtor, each member of his or her family and persons dependent on the debtor, but in means of support recovery matters for the support of minor children or for the benefit of the Means of Support Guarantee Fund administration – money in the amount of 50 per cent of the minimum monthly wage for the debtor, each member of his or her family and persons dependent on the debtor.

.
4. One cow or goat and one pig per family, and feed in the amount required until new feed is gathered or until the livestock are taken to pasture.
5. Fuel required for preparing food for the family and for heating of the living premises during the heating season.
6. Books, instruments and tools required for the debtor in his or her daily work, providing the means needed for maintenance.
7. Agricultural stock, that is, agricultural tools, machinery, livestock and seed required for the farm, together with the amount of feed required for the maintenance of livestock of the relevant farm until a new harvest. What agricultural tools, how much livestock and what amount of feed is to be regarded as necessary shall be determined by instructions of the Minister of Agriculture.
8. Movable property which in accordance with the Civil Law is recognised to be an appurtenance to immovable property - separately from such immovable property.
9. Houses of worship and ritual articles.

Annex 2

Civil Procedure Law

Provisions regarding Renewal of Lost Court Proceedings Materials and Execution Proceedings Materials

1. A court may renew lost court proceedings materials and lost execution proceedings materials in civil matters pursuant to the application of a participant in the matter, of a bailiff or of a public prosecutor, as well as on its own initiative.
2. Lost court proceedings materials shall be renewed in full or in that part the renewal of which is necessary pursuant to the opinion of court. If there has been a judgment or a decision to terminate the court proceedings in the matter, the renewal of such judgment or decision is mandatory.
3. An application for the renewal of lost court proceedings materials or writs of execution shall be submitted to the court which adjudicated the matter, but an application for the renewal of lost execution proceedings materials (except a writ of execution), to the district (city) court according to the place of execution.
4. Particulars concerning the matter shall be set out in the application. The application shall be accompanied by documents or true copies thereof which have been retained by the submitter and which pertain to the matter even if such have not been certified in accordance with prescribed procedures.
5. A court, in adjudicating a matter, shall use the preserved parts of materials of the judicial proceeding, request from participants in the matter or other persons documents submitted to them before the court proceedings material were lost, and true copies of other documents and materials pertaining to the matter. The participants in the matter have the right to submit for consideration a draft made by them of the judgment or decision to be renewed.
6. A court may examine as witnesses persons who have been present at the performance of procedural actions and, if required, persons who were in the court panel when the matter in which the judicial materials have been lost was adjudicated and persons who executed the court judgment.
7. If the materials gathered do not suffice for an accurate renewal of lost court proceedings materials, a court pursuant to a decision shall terminate the adjudicating of the application for the renewal of the court proceedings materials. In such case, the submitter has the right to repeatedly submit an action or an application in accordance with general procedures. Costs relating to the adjudicating of such matter shall be covered by the State.
8. Costs incurred by a court in the adjudicating of a matter regarding renewal of lost materials shall be covered by the State. If an application known to be false has been submitted, court costs shall be recovered from the submitter.