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## Code of Enforcement Procedure

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13.12.2006	RT I 2007, 2, 7	01.02.2007
24.01.2007	RT I 2007, 15, 76	01.05.2007
21.02.2007	RT I 2007, 25, 130	01.01.2008
19.11.2008	RT I 2008, 54, 304	27.12.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
17.12.2008	RT I 2009, 4, 24	01.03.2009
21.05.2009	RT I 2009, 30, 178	01.10.2009
21.10.2009	RT I 2009, 51, 349	15.11.2009
18.11.2009	RT I 2009, 59, 385	01.01.2010
09.12.2009	RT I 2009, 68, 463	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140(2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13.07.2010 (OJ L 196, 28.07.2010, pp. 24–26).
17.06.2010	RT I 2010, 38, 231	01.07.2010
17.11.2010	RT I, 06.12.2010, 1	05.04.2011
17.02.2011	RT I, 14.03.2011, 1	24.03.2011, partially
17.02.2011	RT I, 21.03.2011, 1	01.01.2012
30.05.2012	RT I, 13.06.2012, 1	23.06.2012
13.06.2012	RT I, 10.07.2012, 2	01.04.2013
05.12.2012	RT I, 21.12.2012, 1	01.03.2013
20.12.2012	RT I, 31.12.2012, 5	10.01.2013, partially
11.12.2013	RT I, 23.12.2013, 1	01.01.2013 and 01.01.2014
19.12.2013	RT I, 14.01.2014, 1	01.01.2014
21.01.2014	RT I, 31.01.2014, 6	24.01.2014
19.02.2014	RT I, 13.03.2014, 3	01.02.2014
26.03.2014	RT I, 11.04.2014, 1	01.01.2018, partially
11.06.2014	RT I, 21.06.2014, 8	23.03.2014 and 01.01.2016
		01.10.2014
		01.01.2015

19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of Ministers replaced on the basis of subsection 4 of § 107 <sup>3</sup> of the Government of the Republic Act.
05.11.2014	RT I, 20.11.2014, 1	01.05.2015
19.11.2014	RT I, 13.12.2014, 1	01.01.2016, date of entry into force changed to 01.07.2016 [RT I, 17.12.2015, 1]
10.12.2014	RT I, 31.12.2014, 1	10.01.2015
18.02.2015	RT I, 05.03.2015, 2	06.03.2015, partially01.01.2017
18.02.2015	RT I, 12.03.2015, 4	01.10.2015, partially01.03.2016
25.11.2015	RT I, 17.12.2015, 1	20.12.2015, partially01.01.2016 and 01.07.2016
15.06.2016	RT I, 08.07.2016, 1	01.01.2017
08.03.2017	RT I, 23.03.2017, 1	01.04.2017
07.06.2017	RT I, 26.06.2017, 1	06.07.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
14.06.2017	RT I, 04.07.2017, 1	01.01.2018
14.06.2017	RT I, 04.07.2017, 3	01.01.2018
14.06.2017	RT I, 04.07.2017, 4	01.06.2023 enters into force simultaneously with the entry into force, in respect of Estonia, of the Agreement on a Unified Patent Court and the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court
19.06.2017	RT I, 07.07.2017, 2	01.01.2018
13.12.2017	RT I, 30.12.2017, 2	09.01.2018, partially01.07.2018 and 01.01.2019
21.03.2018	RT I, 03.04.2018, 3	15.04.2018, partially01.07.2018
09.05.2018	RT I, 31.05.2018, 2	10.06.2018
09.05.2018	RT I, 31.05.2018, 1	01.01.2019
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
17.10.2018	RT I, 26.10.2018, 1	01.04.2022, partially01.09.2019
20.02.2019	RT I, 19.03.2019, 2	29.03.2019
21.02.2019	RT I, 19.03.2019, 8	01.04.2019
20.02.2019	RT I, 19.03.2019, 1	01.01.2021
21.06.2019	RT I, 27.06.2019, 2	21.06.2019 - by judgment of the Constitutional Review Chamber of the Supreme Court the second sentence of subsection 4 of § 100 of the Code of Enforcement Procedure is declared unconstitutional and invalid insofar as an enforcement agent has no discretion in deciding on the return of deposits paid by participants in an auction held under enforcement procedure – as regards the issue to what extent a deposit has to be returned to the person who paid it and to what extent they have to be transferred to the common part of the budget of the Estonian Chamber of Enforcement Agents and Trustees in Bankruptcy.
09.12.2020	RT I, 22.12.2020, 34	01.01.2021
16.12.2020	RT I, 04.01.2021, 4	01.02.2021
17.02.2021	RT I, 03.03.2021, 1	04.03.2021
10.03.2021	RT I, 22.03.2021, 1	01.04.2021

## Part 1

# GENERAL PROVISIONS

## Chapter 1 ENFORCEABLE TITLES AND PRINCIPAL ARRANGEMENTS CONCERNING ENFORCEMENT

### § 1. Scope of application of this Code

This Code provides for the rights and obligations of debtors, of parties seeking enforcement and of enforcement agents and lays down the rules for the enforcement of enforceable titles.

### § 2. Enforceable titles

(1) This Code governs the enforcement of claims arising from the following enforceable titles:

1) a judgment or court order made in a civil action, which has entered into effect or is subject to enforcement without delay;

2) a judgment or an order of an administrative court that has entered into effect or is subject to enforcement without delay and concerns the costs of the case or any other monetary claims in public law that are overdue and being pursued, or an award of compensation for harm caused in a public law relationship, or protective measures to secure payment of a monetary claim;

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

3) a judgment or an order rendered in a criminal case, which has entered into effect and which concerns criminal sanctions consisting in a monetary claim that is overdue and being pursued, the costs of criminal proceedings or any other monetary levies;

4) a judgment or an order rendered in a misdemeanour case, which has entered into effect and which concerns a fine imposed as a sanction for a misdemeanour, the costs of misdemeanour proceedings or any other public law claims that are overdue and being pursued;

4<sup>1</sup>) a decision or order of the Unified Patent Court that has entered into effect and is mentioned in Article 82 of the Agreement on a Unified Patent Court (OJ C 175, 20.06.2013, pp. 1–40);

[RT I, 04.07.2017, 4 – entry into force 01.06.2023 – enters into force simultaneously with the entry into force, in respect of Estonia, of the Agreement on a Unified Patent Court and of the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court (announcements of the Ministry of Foreign Affairs – RT II, 04.03.2023, 3 and RT II, 04.03.2023, 4)]

5) a disposition of a court of a foreign state that has been declared enforceable in Estonia or that is subject to enforcement without having been recognized;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

5<sup>1</sup>) an official document of a foreign state that has been declared enforceable in Estonia or that is subject to enforcement without having been recognized;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

6) a decision of an arbitral tribunal that has been declared enforceable;

[RT I, 19.03.2019, 8 – entry into force 01.04.2019]

6<sup>1</sup>) a decision of the Arbitral Tribunal of the Estonian Chamber of Commerce and Industry or of the Chamber of Notaries which has entered into effect;

[RT I, 19.03.2019, 8 – entry into force 01.04.2019]

7) a decision of a lease committee which have entered into effect;

[RT I, 04.07.2017, 3 – entry into force 01.01.2018]

7<sup>1</sup>) a decision of the Public Procurement Appeals Committee that has entered into effect and that concerns a monetary claim that is overdue and being pursued;

[RT I 2007, 15, 76 – entry into force 01.05.2007]

7<sup>2</sup>) a decision of the Ethics Tribunal of the Bar Association that has entered into effect;

[RT I, 21.12.2012, 1 – entry into force 01.03.2013]

7<sup>3</sup>) a decision of a labour dispute committees which have entered into effect, decisions of labour dispute committees enforceable without delay and orders on approval of compromise;

[RT I, 04.07.2017, 3 – entry into force 01.01.2018]

8) a settlement reached in proceedings conducted by an out-of-court dispute resolution body provided for by law, including a settlement approved in conciliation proceedings by the Chancellor of Justice;

9) a decision or order of an out-of-court proceedings authority concerning a fine imposed as a sanction for a misdemeanour, concerning a cautionary fine imposed under the written caution procedure, concerning a fixed penalty imposed under the abridged procedure or concerning the costs of misdemeanour proceedings or any other public law claims that are overdue and being pursued;

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

10) an order of an investigative authority or of the Prosecutor's Office for collection of information needed to impose a forfeiture of property or for deciding confiscation of certain property obtained by a criminal offence,

and for reimbursement of the costs of the case in pre-trial proceedings, or an order of the Prosecutor's Office concerning clawback of a compensation for harm caused in offence proceedings;  
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]

11) an administrative decision that constitutes the basis for collection of a non-compliance levy and of the costs of substitutional performance;

12) an administrative decision issued by a tax administration concerning compulsory enforcement of tax liabilities and of other monetary obligations;

13) a compliance notice for the collection of a statutory fee, issued by an administrative authority that performed an operation for which such a fee is due;

14) [repealed – RT I, 04.07.2017, 1 – entry into force 01.01.2018];

14<sup>1</sup>) a decision made under the procedure for acquisition of immovable property in the public interest, including under expropriation procedure;

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

14<sup>2</sup>) [repealed – RT I, 29.06.2018, 1 – entry into force 01.07.2018];

15) in relation to reclamation of possession of an item of immovable property, a record of a compulsory auction on the basis of which a person who purchased the immovable at the auction was registered as its owner in the Land Register;

16) an enforcement agent's decision concerning the enforcement agent's fee and the costs of enforcement and concerning the imposition of a non-compliance levy;

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

17) an invoice for a notary's fees for an official notarial operation and for the costs related to its performance;

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

17<sup>1</sup>) [repealed - RT I, 23.12.2013, 1 – entry into force 01.01.2014]

18) a notarized agreement concerning a monetary claim, under which, upon the claim falling due a debtor has consented to be subject to immediate compulsory enforcement;

18<sup>1</sup>) a notarized agreement concerning a claim for maintenance, by which a debtor has consented to be subject to immediate compulsory enforcement;

[RT I 2009, 68, 463 – entry into force 01.01.2010]

19) a notarized agreement which provides an obligation for the owner of an item of immovable property or of a ship registered in the Register of Ships or of an item of movable property encumbered with a registered security to submit to immediate compulsory enforcement for the satisfaction of a claim secured by a mortgage, a maritime mortgage or a registered security;

[RT I 2009, 30, 178 – entry into force 01.10.2009]

19<sup>1</sup>) a notarized agreement which provides an obligation for the owner of a construction work that is deemed to constitute movable property, or of a part of such a construction work, to submit to immediate compulsory enforcement for the satisfaction of a claim secured by a pledge contract concerning the construction work or part thereof;

19<sup>2</sup>) a notarized agreement which provides an obligation for the owner of an item of immovable property to submit to immediate compulsory enforcement for the satisfaction of a financial claim secured by a real encumbrance;

[RT I 2009, 68, 463 – entry into force 01.01.2010]

19<sup>3</sup>) an agreement which is mentioned in subsection 9 of § 35<sup>1</sup> of the Land Reform Act and which has been concluded in writing, or a decision of a County Governor or of the Director General of the Land Board, which obligates the owner of an item of immovable property to submit to immediate compulsory enforcement for the satisfaction of a monetary claim secured by a real encumbrance;

[RT I, 04.07.2017, 1 – entry into force 01.01.2018]

20) a decision on the imposition of an overdue parking fee made in the course of parking enforcement;

21) in a situation provided for by law, an administrative decision for the performance of a monetary obligation in public law;

22) a decision of the Council, of the Commission or of the European Central Bank which is made under Article 299 of the Treaty on the Functioning of the European Union and which imposes a monetary obligation on a party other than a State;

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

23) a decision of the Office for Harmonisation in the Internal Market mentioned in Article 82 of Council Regulation (EC) No 40/94 on the Community trade mark (OJ L 011, 14.01.1994, pp. 1–36) and Article 71 of Council Regulation (EC) No 6/2002 on Community designs (OJ L 003, 05.01.2002, pp. 1–24);

[RT I 2009, 4, 24 – entry into force 01.03.2009]

24) an agreement concluded in conciliation proceedings and approved and declared to be enforceable in accordance with the rules provided in Chapter 62<sup>1</sup> of the Code of Civil Procedure;

[RT I 2009, 59, 385 – entry into force 01.01.2010]

25) an agreement approved by a conciliation body according to the rules provided in § 26 of the Conciliation Act;

[RT I 2009, 59, 385 – entry into force 01.01.2010]

26) a notarized agreement mentioned in subsections 3 or 4 of § 14 of the Conciliation Act.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

27) a certificate that is issued by an apartment association and that is mentioned in subsection 4<sup>4</sup> of § 23, subsection 4 of § 149<sup>1</sup> and subsection 3 of § 153<sup>1</sup> of this Act concerning a claim arising from the apartment ownership.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) An agreement mentioned in clause 19 of subsection 1 of this section binds a legal successor of the owner of an item of immovable property or a ship only if a corresponding note has been entered in the Land Register or the Register of Ships.

(3) Compulsory enforcement may not be carried out on the basis of an enforceable title mentioned in clause 15 of subsection 1 of this section if the possessor possesses the item of property on the basis of a right which has not expired or been terminated due to compulsory enforcement. Any dispute concerning expiration of the right is disposed of by a district court based on a court claim made by the possessor.

(4) Enforcement proceedings cannot be initiated on the basis of an enforceable title mentioned in clause 27 of subsection 1 of this section.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

### **§ 3. Organization of enforcement**

(1) Unless otherwise provided for by law, the enforcement of enforceable titles is arranged by enforcement agents.

(2) The legal status and disciplinary liability of enforcement agents is provided for in the Enforcement Agents Act.

### **§ 4. Service area**

(1) Unless otherwise provided for in this Code, a levy on the property of a debtor is made by an enforcement agent in whose service area, as determined by a regulation of the Minister responsible for the area, the residence or seat of the debtor is situated or the debtor's property is located.

(2) If, at the residence or seat of the debtor, there is no property to levy upon, the proceedings that have been commenced may be pursued by the enforcement agent beyond their service area.

(3) If a debtor leaves for the service area of another enforcement agent and no property that could be levied upon remains in the debtor's previous residence, the enforcement agent who commenced the proceedings may pursue such proceedings to their conclusion.

(4) An enforcement agent performs enforcement operations only in the territory of the Republic of Estonia. Enforcement proceedings conducted in a foreign state are subject to the law of the state where they are conducted. In order to receive information required for enforcement of an enforceable title in a foreign state, a person has a right to address the Ministry of Justice of the Republic of Estonia.

### **§ 5. Parties to enforcement proceedings**

(1) The parties to enforcement proceedings are the person who has filed a claim for enforcement (the party seeking enforcement), the person against whom a claim has been filed for enforcement (the debtor), and any other persons whose rights are affected by enforcement proceedings.

(2) In addition to other parties, any person who has a right that presents an obstacle to compulsory enforcement or a claim which entitles them to receive a part of the proceeds of the sale of the property in question, and who informs the enforcement agent of such a right and, where the enforcement agent or a party to the proceedings requires this, substantiates that right, is also party to enforcement proceedings.

(3) In addition to other parties to enforcement proceedings concerning an item of immovable property, such proceedings include, as parties, any persons for whose benefit a right has been entered or an entry protecting a right has been made in the Land Register by the time a restraining note is entered in that Register.

### **§ 6. [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]**

### **§ 7. Refusal to perform an enforcement operation**

(1) An enforcement agent only refuses to perform an enforcement operation for a reason provided by law.

(2) When an enforcement agent refuses to perform an enforcement operation, they make, without delay, a decision stating the reasons for the refusal in which they also explain the rules for appealing the decision. An enforcement agent serves the decision on the person concerned in accordance with the relevant rules of civil procedure.

(3) Unless otherwise provided by law, an enforcement agent may not refuse to accept, from a court, a procedural document for service.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

## **§ 8. Obligations of enforcement agents**

(1) An enforcement agent is required to take, without delay, all measures permitted by law in order to enforce an enforceable title, to collect information required for enforcement proceedings and to explain, to the parties to enforcement proceedings, the rights and obligations of such parties.

(2) An enforcement agent enforces monetary claims, except for a child's claim for maintenance, in the order in which they were filed for enforcement.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **§ 9. Recusal of an enforcement agent and the requirements for witnesses**

(1) An enforcement agent may not conduct enforcement proceedings and must recuse themselves by a decision if they are:

- 1) the debtor or the party seeking enforcement or their representative, except where the agent is collecting the costs of enforcement;
- 2) a descendant or lineally ascending relative or a sister, half-sister, brother or half-brother of the debtor or of the party seeking enforcement or if they have been married to a sister, half-sister, brother or half-brother of the debtor or of the party seeking enforcement;
- 3) a step-parent or foster parent or a stepchild or foster child of the debtor or of the party seeking enforcement;
- 4) an adoptive parent or adoptive child of the debtor or of the party seeking enforcement;
- 5) the spouse of the debtor or of the party seeking enforcement, a person permanently living together with the debtor or the party seeking enforcement, even where the marriage or permanent cohabitation has ended;
- 6) directly or indirectly interested in the compulsory enforcement or if other circumstances apply which give reason to doubt their impartiality.

(1<sup>1</sup>) An enforcement agent must also recuse themselves if a person connected with the agent within the meaning of subsection 1 of § 117 of the Bankruptcy Act, an employee of the agent's office or another enforcement agent with whom the agent keeps a shared office is a party to the proceedings or a beneficiary of the enforcement operation. Delegating the enforcement operation to the agent's assistant or to a stand-in agent does not constitute a justifying circumstance.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) In a situation mentioned in clause 6 of subsection 1 of this section, collection of the enforcement agent's fee is not deemed to be a circumstance causing partiality.

(3) On the grounds mentioned in subsections 1 and 1<sup>1</sup> of this section, a party to enforcement proceedings or their representative may file a substantiated application to recuse an enforcement agent. The application may be filed without delay after becoming aware of the circumstance which constitutes grounds for recusal.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) If an enforcement agent does not recuse themselves based on the application, the person who filed the application may file, within ten days following service of the decision by which the agent refuses to recuse, a motion to recuse that agent with a court.

(5) When it receives a motion mentioned in subsection 4 of this section, the court hears the opinion of the enforcement agent and of the party to enforcement proceedings. The court disposes of the recusal application by an order.

(6) When an enforcement agent is recused, the enforceable title is assigned to another enforcement agent on an application of the party seeking enforcement. If all enforcement agents serving a locality are recused, the enforceable title is assigned to be enforced by the enforcement agent who is the closest to the residence or seat of the debtor on a motion of a party seeking enforcement. If the party seeking enforcement does not file a motion for assignment within five working days following service of the order, the court decides on the transfer of the case to another enforcement agent on an application of the enforcement agent who has been recused.

(7) Any witnesses who participate in enforcement proceedings are also subject to the provisions of clauses 1, 2, 5 and 6 of subsection 1 of this section. Acting as an enforcement agent or being employed in an enforcement agent's office does not preclude being a witness.

## **§ 10. Transmission of documents**

(1) The enforcement agent must serve, on the debtor, an enforcement notice and, on the parties to enforcement proceedings, a notice of any attachment of property, an auction report, any decisions the agent makes concerning any complaints filed against the agent's actions as well as any other documents provided for by law. The debtor may, on receiving the enforcement notice, notify to the agent the manner in which procedural documents are to be transmitted to them and the contact details of a location that, when documents are transmitted to it, allows them to be deemed served by the agent. An enforcement agent may, when serving an enforcement notice or any other procedural document personally on a debtor, require the debtor to communicate to the agent contact details by means of which it is possible to serve documents on the debtor. If the debtor does not comply or if their contact details are inaccurate, the agent may also serve, in a manner of their choosing, any documents which the law requires to be served on the debtor.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) Unless otherwise provided for in this Code, the service of documents is subject to the provisions of civil procedure regarding service of procedural documents. An enforcement agent may also serve a document personally. Any operations that the rules of civil procedure require a court to perform in relation to the service of documents are performed by an enforcement agent. In a situation provided for in § 327 of the Code of Civil Procedure, an enforcement agent may deposit the document in an enforcement agent's office which is located at the place where the document is to be served.

(2<sup>1</sup>) Within two months following reception of a procedural document for service, an enforcement agent is required to perform all operations necessary for such a document to be served.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Where a party to the proceedings has been represented in previous proceedings before a court by a representative, documents may be served on the representative.

(4) A notice or any other document which does not have to be served on the parties to the proceedings but which affects the rights of such parties is served on them in a manner chosen by the enforcement agent.

(5) Where a document mentioned in subsection 4 of this section is sent by post, the document is deemed to have been received three days after being posted and, where the document is sent to a foreign state, seven days after being posted, except where the recipient proves that they received the document later or have not received the document.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

#### **§ 11. Powers of a court under enforcement procedure; exclusive jurisdiction**

(1) Under this Code, a district court has the power to:

- 1) impose a fine;
- 2) make an order to compel a person's attendance, issue an arrest warrant or impose a short-term custodial sentence;
- 3) authorize a search;
- 4) consider an appeal against a decision of an enforcement agent;
- 5) dispose of court claims made in relation to enforcement proceedings;
- 6) appoint and release a compulsory administrator;
- 7) make other dispositions where such are prescribed in this Code.

(2) The matters mentioned in subsection 1 of this section are in the exclusive jurisdiction of the district court in whose service area enforcement proceedings are conducted or should be conducted.

(3) Instead of a judge, court orders provided for in this Code in matters concerning the imposition of fines and of compulsory administration may be made by an assistant judge.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

#### **§ 11<sup>1</sup>. Implementation of Regulation (EU) No 655/2014 of the European Parliament and of the Council**

(1) A European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council establishing a European Account Preservation Order procedure to facilitate cross-border debt clawback in civil and commercial matters (OJ L 189, 27.06.2014, pp. 59–92) is to be implemented under enforcement procedure in Estonia and the provisions governing enforcement proceedings of orders on interim protection in Estonia apply to a debtor's legal remedies insofar as not otherwise provided for in Regulation (EU) No 655/2014 of the European Parliament and of the Council.

(2) The filing of a signed enforcement application within the meaning of § 23 of this Code is not required in order to commence enforcement proceedings on a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council.

(3) In order to attach a bank account, instead of an attachment notice an enforcement agent transmits to a credit institution Part A of a European account preservation order conforming to Article 19 of Regulation (EU) No 655/2014 of the European Parliament and of the Council as well as a European account preservation order preservation notice.

(4) The Electronic Attachment System is not to be used when implementing a European account preservation order.

(5) If, at the time of attachment, a debtor's account does not have funds in the amount stated in the attachment notice, any amounts credited to the account after such time are not deemed to be attached to the extent that remained outstanding at the time of attachment.

(6) Where a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council protects a child's claim for maintenance, subsection 4 of § 65 of this Code applies.

(7) Having performed the preservation operations, a credit institution presents a declaration concerning the preservation of funds that is mentioned in Article 25 of Regulation (EU) No 655/2014 of the European Parliament and of the Council to an enforcement agent without delay.

(8) An electronic version of the form to be used for the declaration under Article 25 of Regulation (EU) No 655/2014 of the European Parliament and of the Council is disseminated on the website of the Chamber of Enforcement Agents and Trustees in Bankruptcy.

(9) Under Article 34(1) and Article 35(4) of Regulation (EU) No 655/2014 of the European Parliament and of the Council, an enforcement agent is competent to implement legal remedies.

(10) Under Article 4(14) of Regulation (EU) No 655/2014 of the European Parliament and of the Council, an enforcement agent is competent to receive, transmit and serve documents pursuant to Article 23(3), (5) and (6), Article 25(3), Article 27(2), Article 28(3) and the second subparagraph of Article 36(5).  
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

## **Chapter 2**

# **PREREQUISITES FOR ENFORCEMENT OF AN ENFORCEABLE TITLE**

### **§ 12. Note certifying the entry into effect of an enforceable title**

(1) To be accepted for enforcement, a judicial disposition, or a decision of a labour dispute committee or of a lease committee, that has entered into effect has to bear a note certifying entry into effect. A disposition subject to enforcement without delay is not provided with a note certifying entry into effect.  
[RT I, 11.04.2014, 1 – entry into force 01.10.2014]

(2) A note certifying the entry into effect of a decision of a labour dispute committee or of a lease committee is issued by the corresponding committee after the entry into effect of the decision.  
[RT I, 11.04.2014, 1 – entry into force 01.10.2014]

(2<sup>1</sup>) A certificate concerning enforceability of the decision is annexed to an enforceable title mentioned in clause 22 of subsection 1 of § 2 of this Code by the Ministry of Justice.  
[RT I 2006, 61, 457 – entry into force 01.01.2007]

(2<sup>2</sup>) A certificate concerning enforceability of the decision is annexed to an enforceable title mentioned in clause 23 of subsection 1 of § 2 of this Code by the Patent Office.  
[RT I 2009, 4, 24 – entry into force 01.03.2009]

(3) An enforceable title mentioned in subsections 1 and 2 of this section may be also accepted for enforcement without a note on its entry into effect and without presentation of the document in physical form, provided the entry into effect of the decision can be verified by another method which is technically secure. The Minister responsible for the area may enact specific requirements for verification of the entry into effect of enforceable titles by another method.

(4) The enforcement agent has a right to terminate proceedings if it becomes evident that the enforceable title was accepted for enforcement in violation of the requirements of this section.

### **§ 13. Enforcement proceedings regarding property of the spouse**

(1) [Repealed – RT I, 19.03.2019, 2 – entry into force 29.03.2019]

(2) Where, due to its nature, an item of property is suitable for the personal use of one spouse, it is presumed that the item belongs to the spouse who should be using it because of its nature.

### **§ 14. Levy on the community property of spouses**

(1) A levy on the community property of spouses is permitted subject to the consent of the spouse who is not the debtor, or if the enforceable title requires both spouses to perform the obligation.



(1<sup>1</sup>) Where a levy on the community property of spouses is made in enforcement proceedings concerning the property of one spouse, the consent, in favour of the party seeking enforcement, of the spouse who is not the debtor is presumed. Such property may be attached and sold. The presumption of consent does not apply to items of immovable property and to the earnings of the spouse who is not the debtor, as well as to the funds in any account opened in the name of the spouse who is not the debtor. The spouse who is not the debtor is notified of the attachment of the property mentioned in this subsection and the possibility of filing an objection is explained to that spouse.

[RT I, 19.03.2019, 2 – entry into force 29.03.2019]

(2) The party seeking enforcement may demand division of community property and the making of a levy on the share of such property that belongs to the debtor.

[RT I, 19.03.2019, 2 – entry into force 29.03.2019]

### **§ 15. Levy on partnership property**

A levy on partnership property requires an enforceable title that is valid in respect of all partners.

### **§ 16. Continuation of enforcement proceedings after the debtor's death**

(1) Unless otherwise prescribed by law, enforcement proceedings initiated before the debtor's death are continued against the debtor's estate.

(2) If an enforcement operation has to be performed in the presence of the debtor or if the debtor has to be informed of such an operation, the court, on an application of the party seeking enforcement, appoints a temporary representative to the debtor's heirs if the estate has not yet been accepted, the heirs are not known or it is not known whether the heirs accept the estate. The appointment is foregone if the estate is administered by an administrator or by the executor of the testator's will.

### **§ 17. Enforcement proceedings before expiry of the time limit for renouncing an inheritance and before acceptance of the same**

Before the expiry of the time limit for renouncing an inheritance or before acceptance of the same, enforcement proceedings based on a claim against the estate may be conducted only in respect of such an estate. In such a situation, the estate may not be subjected to a levy that is based on the personal obligations of the heir.

### **§ 18. Acceptance of enforceable title for enforcement upon transfer of legal succession and possession of property**

(1) If an enforceable title is also valid in respect of a legal successor of the party seeking enforcement or of the debtor named in such a title, an enforcement agent accepts the title for enforcement if the legal succession has been proven to the agent by a judicial disposition, by an extract from a public register or by a notarized document. The same applies to the enforcement of a judicial disposition in respect of the possessor of a disputed item of property, where the possessor has changed after the rendering of the disposition.

(1<sup>1</sup>) The passing of a maintenance claim to the State is proved by a decision to grant a maintenance allowance according to subsection 1 of § 57 of the Family Allowances Act and by a statement of the operation of payment of the maintenance allowance during enforcement proceedings.

[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(1<sup>2</sup>) A legal successor of the party seeking enforcement may join the enforcement proceedings that have been initiated.

[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(2) The provisions of subsection 1 of this section apply to an heir also where a judicial disposition rendered in respect of a provisional heir or executor of the will is valid in respect of the heir.

(3) If a party seeking enforcement does not prove the passing of rights by a document mentioned in subsection 1 of this section, they may make a court claim against the debtor seeking recognition of the passing of the right or obligation arising from the enforceable title.

### **§ 19. Beginning of enforcement proceedings where the claim is provisional or contingent**

(1) Where, in order to becoming due, a claim contained in an enforceable title requires the expiry of a time limit or the fulfilment of a condition or the arrival of a due date, enforcement operations may only be commenced after such expiry, fulfilment or arrival.

(2) Fulfilment of a condition has to be proved to the enforcement agent by written documents.

## **§ 20. Enforcement proceedings depending on the provision of security by the party seeking enforcement**

If enforcement proceedings require the provision of security by the party seeking enforcement, such proceedings may be commenced only if the provision of security is proved by a written document and a copy of the document has been served on the debtor or is served on the debtor together with the enforcement notice.

## **§ 21. Simultaneous mutual performance**

(1) Where the enforcement of an enforceable title requires the simultaneous performance, to the debtor, of an obligation owed by the party seeking enforcement, the enforcement agent does not commence enforcement proceedings before the obligation owed by such a party has been performed or before the party, or the agent, has offered to perform the obligation to the debtor, and the debtor has, without justification, refused to accept such performance or has delayed acceptance for other reasons.

(2) An offer mentioned in subsection 1 of this section is not required if the party seeking enforcement presents a written document showing that the obligation owed by the party seeking enforcement has been performed or that the debtor delays acceptance of such performance, and a copy of the document has been transmitted to the debtor or is transmitted to the debtor together with the enforcement notice.

## **§ 22. Issue to the party seeking enforcement of a document required for enforcement**

Where, for purposes of compulsory enforcement, the party seeking enforcement needs a right of succession certificate or another document, such a party may require the document to be issued by a notary or an administrative authority in the stead of the debtor. When requiring the issue of the document, the party seeking enforcement must present the enforceable title.

# **Chapter 3 GENERAL CONDITIONS FOR ENFORCEMENT PROCEEDINGS**

## **Division 1 Commencement of Enforcement Proceedings**

### **§ 23. Presenting an enforcement application and the enforceable title**

(1) An enforcement agent conducts enforcement proceedings based on an application of the party seeking enforcement (hereinafter, 'enforcement application') and an enforceable title. Where the enforceable title is a decision concerning payment of the enforcement agents' fee or a decision ordering payment of the costs of enforcement, and in other situations provided for by law, the enforcement agent conducts enforcement proceedings regardless of whether an application is made by the party seeking enforcement.

(2) An enforcement application is presented to the enforcement agent in writing and sets out:

- 1) the name of the agent;
- 2) for the party seeking enforcement as well as for the debtor – their name, personal identification code or date of birth, residence and their telecommunications number; where the party or the debtor is a legal person, such a person's registry code or, if the person does not have a registry code, a reference to the person's legal basis, its seat and telecommunications number;
- 3) if, when the application is made, the party seeking enforcement is represented by a representative, the name of the representative and the legal basis for the representation;
- 4) if possible, information on the debtor's property.

(3) If the party seeking enforcement wishes to levy on an item of immovable property, the application, if possible, has to state also the particulars of the item on which the levy is to be made. Where several items are indicated, the party seeking enforcement names the item on which they wish the levy to be made.

(4) The enforceable title is annexed to the enforcement application. Such a title is presented as an original document, or as a notarially certified copy or as a copy certified under rules providing for equivalent certification. A judgment may be presented as a copy certified by the court's office. The enforceable title is submitted as an original document in the Estonian or English language or as an official or certified translation into Estonian or English. An enforceable title issued by a proceedings authority in a misdemeanour case is annexed as a copy certified by that authority.

[RT I, 04.07.2017, 4 – entry into force 01.06.2023 – the fourth sentence enters into force simultaneously with entry into effect of the Agreement on a Unified Patent Court and the Agreement on the establishment of a Nordic-Baltic regional division of the Unified Patent Court with regard to Estonia (announcements of the Ministry of Foreign Affairs – RT II, 04.03.2023, 3 and RT II, 04.03.2023, 4)]

(4<sup>1</sup>) With respect to the enforceable titles mentioned in clauses 19 and 19<sup>1</sup> of subsection 1 of § 2 of this Code, a pledge contract, a security agreement, the basis for the principal and ancillary claims and a detailed calculation of such claims have to be presented to the enforcement agent.  
[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(4<sup>2</sup>) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4<sup>3</sup>) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4<sup>4</sup>) If an apartment association wishes a levy to be made on an apartment ownership, in addition to the enforceable title, the management plan of the apartment association and documentation with the following information must be appended to the application for enforcement:

- 1) the amount of the claim arising from apartment ownership which has become due up to three months prior to the making of the application, and information which allows to verify that the claim is justified;
- 2) the basis for further calculation of the management costs.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4<sup>5</sup>) Where an enforceable title contains claims whose due date is in the future, the party seeking enforcement indicates whether they wish such claims to be included in the enforcement proceedings. If a party seeking enforcement has presented, for enforcement, a claim which will become due in the future, they undertake to notify the enforcement agent without delay if such a claim is performed by the obligor directly to them.  
[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(5) If an enforcement application is filed by a representative on behalf of the party seeking enforcement and the enforcement agent cannot verify the existence of the right of representation without delay, a document certifying the right of representation has to be annexed to the application.

(6) An enforcement application and an enforceable title may be filed electronically. The application must bear the digital signature of the sender or be transmitted otherwise in a technically secure manner. The Minister responsible for the area may enact technical requirements for the electronic filing of enforcement applications and of enforceable titles.

## **§ 23<sup>1</sup>. Distribution of a public authority's claims**

[RT I, 05.03.2015, 2 – entry into force 06.03.2015]

(1) The rules to govern distribution of a public authority's claims between enforcement agents are enacted by a regulation of the Government of the Republic.

(2) In the rules to govern distribution of a public authority's claims between enforcement agents the Government of the Republic may specify the classes of persons and claims covered by those rules, and the conditions for the filing of claims for enforcement under enforcement procedure in situations of information technology failure.

(3) The State, a body of the State, a local authority or a body of such an authority or any other legal person in public law files a claim for enforcement under enforcement procedure according to the rules governing distribution of a public authority's claims between enforcement agents.

(4) Other public authorities not mentioned in subsection 3 of this section file public law claims for enforcement under enforcement procedure according to the rules governing distribution of a public authority's claims between enforcement agents.

(4<sup>1</sup>) With respect to claims mentioned in subsections 3 and 4 of this section, the date on which the party seeking enforcement enters the enforcement application in the public authorities' claims information system or an information system interfaced with that system is deemed to be the date on which the enforcement application was presented to the enforcement agent by the party seeking enforcement.  
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(5) A claim falling within the scope of the rules governing distribution of a public authority's claims between enforcement agents is presented for enforcement exclusively through the Chamber of Enforcement Agents and Trustees in Bankruptcy (hereinafter, 'the Chamber'), by transmitting such a claim to the Chamber through the information system for the filing and distribution of public authorities' claims. In such a situation, a claim falling within the scope of the aforementioned rules may not be accepted for enforcement by an enforcement agent in a manner other than through the Chamber.  
[RT I, 05.03.2015, 2 – entry into force 06.03.2015]

## **§ 24. Service of an enforcement notice on the debtor**

(1) If the conditions for commencement of enforcement proceedings have been complied with, an enforcement agent serves an enforcement notice on the debtor. The form of the enforcement notice is enacted by the Minister responsible for the area.

(2) When an enforcement notice is served on the debtor, enforcement proceedings are deemed to have commenced. For the purposes of calculating compliance with and suspension of the time limit and with respect to the enforcement costs incurred, enforcement proceedings are deemed to have started when the application of the party seeking enforcement reached the enforcement agent, provided the enforcement notice is served on the debtor.

(3) An enforcement notice sets out:

- 1) the name of both the party seeking enforcement and the debtor;
  - 2) the marking of the enforceable title;
  - 3) a proposal for voluntary compliance with the enforceable title and the time limit for such compliance;
  - 4) a warning that, should the debtor not comply with the enforceable title on a voluntary basis, enforcement operations may be carried out in their respect;
  - 5) a reference to the debtor's right to an appointment with the enforcement agent concerning the enforceable title;
  - 6) a reference to the debtor's right to make a court claim for compulsory enforcement to be declared impermissible according to the rules prescribed in this Code and within the time limit for making such a court claim;
  - 7) a reference to the debtor's right to only pay the fee for commencement of enforcement proceedings if the debtor complies with the enforceable title within the term set for voluntary compliance.
- [RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(4) A copy of the enforceable title is enclosed with an enforcement notice.

(5) An enforcement notice which is to be served by public notice is deemed to have been served on the debtor when ten days have elapsed following its publication in the edition *Ametlikud Teadaanded*. The particulars to be published in that edition are determined by a regulation of the Minister responsible for the area.

[RT I 2006, 55, 412 – entry into force 01.01.2007]

## **§ 25. Time limit for voluntary compliance with an enforceable title**

(1) If no time limit is set for voluntary compliance with an enforceable title by law or a judicial disposition, such a time limit is determined by the enforcement agent. Unless otherwise prescribed in this Code, the time limit may not be less than 30 days. With the consent of the party seeking enforcement, the enforcement agent may set a time limit for voluntary compliance with the enforceable title which is longer than 30 days.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(1<sup>1</sup>) In the case of a maintenance claim, the time limit for voluntary compliance may not be longer than ten days.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(2) Where the enforceable title is complied with before the expiry of the time limit for voluntary compliance, the debtor may only be charged the fee for commencement of enforcement proceedings.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

# **Division 2**

## **Rights of the Enforcement Agent**

## **§ 26. Right to require the provision of information**

(1) The enforcement agent has a right to require the debtor to provide any oral or written information required for enforcement proceedings and to present any document or other object necessary for enforcement proceedings. The enforcement agent has a right, in enforcement proceedings, to require a person to present an identity document, and the person is obligated to present such a document to the agent.

(1<sup>1</sup>) The enforcement agent must ascertain why a child maintenance debtor does not comply with the obligation to maintain the child, how much they are earning and how they intend to pay off their maintenance debt. For this purpose, the agent questions the debtor at least every two months from the last collection of maintenance or, where such collection was unsuccessful, from their last contact with the debtor. Priority must be given to questioning the debtor at first hand. The debtor's answers are recorded in the enforcement file.

[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(2) The enforcement agent has a right to approach a third party in order to receive oral or written information necessary for enforcement proceedings, including, where there is reason to believe that the third party holds such information, a right to require them to provide information concerning the residence or seat and contact

details of a debtor. The enforcement agent has a right to require the debtor's employer and any other person who owes an obligation to the debtor to provide any information which is needed for enforcement proceedings and which concerns the debtor's claim for payment or any other benefits the debtor is receiving. Such a third party is obligated to provide the information except where they have a right by law to refuse to disclose it.  
[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(3) The enforcement agent has a right to require a credit institution to provide a statement of the debtor's account and the particulars of any deposits held by the debtor and of the use of any other services the institution is providing to the debtor, as well as a right to require the Central Securities Depository to provide information concerning the debtor's securities accounts. The provision of a statement of the debtor's account may be required concerning a period which begins six months before the start of enforcement proceedings and lasts until the end of such proceedings. The provision of a statement of the debtor's account may only be required for a period comprising six consecutive months immediately preceding the inquiry. A statement of a debtor's account is provided to the agent free of charge.  
[RT I, 30.12.2017, 2 – entry into force 01.07.2018]

(3<sup>1</sup>) Where a monetary claim or the total amount of the claims arising from an enforceable title that is being enforced against the debtor exceeds the minimum monthly salary, the enforcement agent may, on the basis of a court order, in order to ascertain a circumstance necessary for performing an obligation established by law, require a credit institution to provide a statement of a third party's account. The agent informs the third party without delay of having made the corresponding application. In the application to the court, the enforcement agent substantiates the need for an account statement, lists the particulars that need to be shown in the statement applied for and states the period to be covered by the statement, which must not be longer than the enforcement proceedings and which may commence six months before the commencement of enforcement proceedings. The court considers the agent's petition under the rules for actions by petition. A statement of the third party's account is issued to the agent free of charge.  
[RT I, 30.12.2017, 2 – entry into force 01.07.2018]

(4) Under an enforceable title presented for enforcement, the enforcement agent has a right to require the data controller of a national or local authority database to provide information concerning a debtor's residence, employer, sources of income, dependants, any property that belongs to the debtor and any obligations which encumber such property as well as concerning any of the debtor's rights, authorizations and documents that are mentioned in § 177<sup>2</sup> of this Code. Under an enforceable title presented for enforcement, the enforcement agent has a right to require information to be provided concerning the debtor's personal particulars that are on record in the Population Register. The data controller is obligated to provide such information without delay in writing or electronically.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

## **§ 26<sup>1</sup>. Imposition of a non-compliance levy**

(1) The enforcement agent makes a decision ordering the performance of the obligation and issues a warning concerning the imposition of a non-compliance levy:

- 1) in the case of failure to perform an obligation provided for in § 26 of this Act, to the person required to provide information;
- 2) to a third party who owes an obligation to the debtor, if such a party refuses, without justification, to comply with the attachment notice or does not comply with such a notice as required.

(2) The written warning mentioned in subsection 1 of this section includes:

- 1) the given name and surname and address of the addressee or the name and postal address of the legal person;
- 2) the decision that the person or party is required to comply with;
- 3) the date marking the time for voluntary compliance;
- 4) if the decision contains an obligation to refrain from a certain act, the date does not need to be stated;
- 5) the amount of the non-compliance levy that will be imposed on failure to comply with the decision;
- 6) the name of the enforcement agent who issued the warning;
- 7) the date on which the warning was drawn up.

(3) The time for voluntary compliance with the decision set in a warning must be such as to make it possible for the addressee to perform the obligation.

(4) The warning concerning imposition of a non-compliance levy states such a levy as a specific amount. Where the levy is to be imposed for the first time, its amount is not less than 192 euros or more than 767 euros and, where a repeat levy is imposed, its amount does not exceed 1917 euros.

(5) The enforcement agent may impose a non-compliance levy on a natural person, on a legal person in private law or on a legal person in public law. No such levy is imposed on an institution of the State or of a local authority.

(6) A non-compliance levy is collected for the national budget.

(7) The imposition of a non-compliance levy is permissible if a valid decision has been communicated to the addressee, and such a decision has not been complied with within the time limit set in the warning. The decision and the warning are served on the obligated person according to the rules provided in § 10 of this Code.

(8) On a reasoned application of the addressee of a non-compliance levy, the enforcement agent who made the corresponding decision may defer the imposition of the levy and issue a new warning in which a new time limit is set for compliance with the decision. The time limit must not be longer than two months.

(9) The enforcement agent may impose a non-compliance levy on a person repeatedly, until the obligation is performed or an appeal is filed against the decision made concerning the imposition of such a levy.

(10) No non-compliance levy is imposed when:

1) the grounds for the imposition of such a levy provided for in subsection 7 of this section have ceased to apply;

2) the legal rule which was the basis for the decision has been repealed;

3) the imposition of the levy has been deferred.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

## **§ 27. Obstruction of enforcement**

(1) Where enforcement is obstructed or there is reason to presume it will be obstructed, an enforcement agent may apply for enlisting the assistance of a police officer in the enforcement operation.

(2) An enforcement agent has a right to remove from the enforcement operation any person who obstructs enforcement.

## **§ 28. Search of premises, of plots of land and of the debtor's person**

(1) With the debtor's consent, the enforcement agent may enter the premises in the possession of the debtor or enter upon a plot of land in the possession of the debtor; where this is necessary for the execution of the enforceable title, the agent may search such premises or such a plot. In such a situation, the agent has a right to open any closed house or apartment doors and storage spaces, or have such doors or spaces opened.

(1<sup>1</sup>) The enforcement agent conducts a search of any premises or plots of land in the possession of a child maintenance debtor at least following every year that elapses after the last collection of maintenance or, where attempts to collect the maintenance have not been successful, after the last search of such premises and plots of land.

[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(2) Without the debtor's consent, entry to any premises or upon any plot of land in their possession, or a search of such premises or of such a plot, may only be made on the basis of a court order.

(2<sup>1</sup>) A court order mentioned in subsection 2 of this section may be made without the debtor having previously prohibited the enforcement agent from entering any premises or upon any plots of land in the debtor's possession, or from searching such premises or plots.

[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(3) A search of any premises or plots of land that complies with the requirements provided for in subsections 1 and 2 of this section must be put up with by any person who a joint or direct possessor of such premises or plots.

(4) Before the beginning of the search, the enforcement agent must present the relevant court order and provide the debtor with a copy of the order.

(5) The debtor's person may be searched only on the basis of a court order. A person may only be searched by an enforcement agent who is, and in the presence of witnesses who are, of the same sex as the person to be searched. If the enforcement agent is not of the same sex with the person to be searched, the agent has a right, for performing the search, to engage a police officer who is of the same sex with the person to be searched.

(6) The court makes the order mentioned in this section not later than on the working day following reception of the application of the enforcement agent.

## **§ 29. Enlisting a witness to observe an enforcement operation**

Where enforcement is obstructed or there is reason to presume that it will be obstructed or if the debtor, a representative of the debtor, a full-age member of the debtor's family or a person who is in the service of the family is not present at the enforcement operation performed on the premises or on a plot of land of the debtor, the enforcement agent enlists two full-age witnesses, a representative of the local authority or a police officer to observe the operation.

### **§ 30. Enforcement on a holiday and during night hours**

Enforcement operations on a holiday, a national holiday and during night hours from 10pm to 6am are performed only in a situation of urgency.

### **§ 31. Enforcement of a monetary claim in prison**

(1) Each month, the prison transfers the amount to be garnished from a prisoner's remuneration for work, or from any other amounts the prisoner receives, to the official bank account of the enforcement agent who sent in the monetary claim for enforcement. The amount to be garnished is calculated according to § 44 of the Imprisonment Act.

(2) In order to distribute the amounts garnished from the prisoner, the enforcement agent draws up a corresponding calculation and transfers the money to the party seeking enforcement.

### **§ 32. Proving the enforcement agent's rights**

By the enforceable title, the enforcement agent proves, to the debtor and to any third parties, the agent's right to carry out enforcement operations, including the right to accept payments and the performance of any other obligations. The party seeking enforcement cannot rely, in respect of the debtor or of any third parties, on the circumstance that the agent does not have a right to carry out an enforcement operation.

### **§ 32<sup>1</sup>. Adjustment**

(1) If necessary, the enforcement agent adjusts a measure or order on the basis of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, pp. 1–32) or adjusts factual elements on the basis of Regulation (EU) No 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters (OJ L 181, 29.06.2013, pp. 4–12).

(2) The enforcement agent provides written notification to the creditor and to the debtor of the adjustment of a measure or order on the basis of Regulation (EU) No 1215/2012 of the European Parliament and of the Council and of the adjustment of factual elements on the basis of Regulation (EU) No 606/2013 of the European Parliament and of the Council.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

## **Division 3**

# **Documentation of Enforcement Operations and Reception of Funds**

### **§ 33. Enforcement file**

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) [Repealed – RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) For each enforcement case, an electronic enforcement file is opened which sets out, in chronological order, any enforcement operations performed and any notices transmitted in the case. Any documents received, or issued, by the enforcement agent in the case are recorded in the enforcement file.

[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

(3) An enforcement agent records, in the enforcement file, any original document transmitted to them on paper and returns it to the sender on a corresponding request.

[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

(4) If an enforceable title contains several monetary claims, a single enforcement file is opened regarding such claims and the claims are added together, unless the party seeking enforcement applies for the opening of several enforcement files.

(5) Where an enforceable title imposes a fine or pecuniary penalty or forfeiture of property on a debtor for a misdemeanour and the court has ordered its execution in instalments, a separate enforcement file is opened regarding the corresponding claims when the first instalment has become due.

(6) An enforcement agent registers and records enforceable titles and enforcement operations electronically according to the rules enacted by a regulation of the Minister responsible for the area.

### **§ 34. Particulars of enforcement operation to be recorded in the enforcement file**

(1) An enforcement agent records the following particulars in the enforcement file regarding each enforcement operation:

- 1) the time and place of performance of the operation;
- 2) a short description of the substance of the operation;
- 3) the names of persons who were present at the operation;
- 4) the signatures of persons who were present at the operation and a note that the relevant entry was signed after it had been read to the person signing it or after the person had acquainted themselves with it and agreed with it;
- 5) the signature of the enforcement agent.

(2) If a person who is present at an enforcement operation cannot or does not wish to sign an entry, their reason for refusal to sign has to be stated in the file.

(3) If an enforcement agent has drawn up a record concerning an enforcement operation and the record's form meets the requirements provided by a relevant regulation of the Minister responsible for the area, the particulars contained in the record do not need to be stated in the enforcement file.

### **§ 35. Access to an enforcement file**

(1) If a party to enforcement proceedings does not have electronic access to the enforcement file, they have a right to acquaint themselves with the court file at the enforcement agent's office and to obtain printouts and certificates from the enforcement file.

(2) The fees to be charged for printouts and certificates are provided for in the Enforcement Agents Act.  
[RT I, 30.12.2017, 2 – entry into force 01.01.2019]

### **§ 36. Receipt**

(1) Where a debtor has performed their obligation in part or in full and requires to be provided with a receipt concerning the performance, the enforcement agent issues such a receipt to the debtor.

(2) The provisions of subsection 1 of this section do not preclude or restrict the debtor's right to require a receipt from the party seeking enforcement concerning the performance.

(3) The enforcement agent transfers any cash received under a receipt to their official bank account not later than on the working day following its reception.

## **Division 4 Enforcement Costs and the Paying Out of Funds to the Party Seeking Enforcement**

### **§ 37. Enforcement costs**

(1) Enforcement costs include the enforcement agent's fee as well as expenditures which are necessary for enforcement proceedings and which have been incurred by the enforcement agent and the party seeking enforcement, or a third party, after the commencement of enforcement proceedings, including:

- 1) fees and statutory fees for inquiries made in order to ascertain personal particulars and the particulars of items of property;
- 2) the costs of transmission of documents related to enforcement proceedings;
- 3) the costs of transporting and preserving attached property and of arrangements to ensure its security, including costs of removing and preserving a vehicle or other property registered in the Motor Register that has been handed over to the enforcement agent under a note requiring such handing over, as well as any other costs related to the preservation of property;  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]
- 4) the costs related to opening, closing, removal, demolition and cleaning of rooms or other objects;
- 5) travel and accommodation expenses related to enforcement operations;
- 6) the costs of compelling the debtor's attendance;
- 7) the costs of arranging an auction, including costs related to payment of the purchase price. The cost of legal advice used by the enforcement agent or the party seeking enforcement in order to resolve legal issues that have arisen in relation to commencement of enforcement proceedings or in the course of such proceedings are not deemed to be necessary expenses. The costs of maintaining an enforcement agent's office are not deemed to be necessary expenses either.

(2) Compensation for costs of proceedings before the court is decided by the court in accordance with the relevant rules of civil procedure.

(3) The grounds and the rules for calculation of enforcement costs and the extent and upper limit of compensation for such costs are enacted by a regulation of the Minister responsible for the area.



### **§ 38. Collection of enforcement costs from the debtor**

- (1) Enforcement costs are borne by the debtor.
- (2) Enforcement costs are collected from the debtor on the basis of a decision on enforcement costs by the enforcement agent who made the decision.
- (3) Where, according to the enforceable title, there are several debtors who are jointly and severally liable for the debt, they are jointly and severally liable for the payment of enforcement costs.

### **§ 39. Proof of enforcement costs**

Where this is required by the debtor or the party seeking enforcement, the enforcement agent must produce items of documentary evidence concerning enforcement costs.

### **§ 40. Advance payment of enforcement costs**

- (1) By a corresponding decision, the enforcement agent may require the party seeking enforcement to pay particularly high enforcement costs, such as costs related to the transport and storage of goods, as well as of arrangements to ensure the security of the same, and any other similar costs, in advance to the agent's official bank account by the due date set by the agent.
- (2) An advance payment towards enforcement costs is not charged from a natural person filing:
  - 1) for enforcement a judicial disposition in relation to the rendering of which they have received financial aid to pay the costs of the case;
  - 2) for enforcement a judgment rendered in criminal proceedings which grants a claim for compensation for harm caused by a criminal offence;
  - 3) an enforceable title for the enforcement of maintenance;
  - 4) for enforcement a judicial disposition that awards them compensation for loss of capacity for work resulting from harm caused to their health.[RT I, 22.12.2020, 34 – entry into force 01.01.2021]
- (3) If the party seeking enforcement states that they do not agree to the advance payment of enforcement costs, or if the advance payment has not been credited to the current account by the specified due date and this complicates enforcement proceedings, the enforcement agent may decide not to perform the enforcement operation. The agent, without delay, informs the party seeking enforcement of having decided not to perform the enforcement operation.
- (4) If the enforcement agent has commenced enforcement proceedings and has set a later due date for advance payment of enforcement costs, the agent may suspend enforcement proceedings if the advance payment of enforcement costs is not made by the prescribed due date. The agent informs the party seeking enforcement without delay of having suspended the proceedings.
- (5) A party seeking enforcement may be required to pay the enforcement agent's fee in advance to the extent and according to the rules prescribed in the Enforcement Agents Act.

### **§ 41. Return of advance payment of enforcement costs**

- (1) When enforcement costs have been collected from the debtor in full, the enforcement agent returns any advance payment of enforcement costs to the party seeking enforcement.
- (2) [Repealed – RT I, 22.03.2021, 1 – entry into force 01.04.2021]

### **§ 42. Repayment of enforcement costs when the enforceable title is set aside**

Where an enforceable title under which compulsory enforcement was conducted is set aside, the debtor has a right to require the party seeking enforcement to return any enforcement costs the debtor has paid. In such a case, the judicial disposition, or disposition of an out-of-court proceedings authority, that sets aside the original enforceable title serves as the new enforceable title together with the decision of the enforcement agent concerning such costs.

### **§ 43. Payment to the party seeking enforcement from an enforcement agent's official bank account**

- (1) Any money that is paid into an enforcement agent's official bank account as a result of compulsory enforcement against a debtor's property is transferred by the agent to the party seeking enforcement within ten working days following the money being credited to the account.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1<sup>1</sup>) Any amounts that are credited to an enforcement agent's official bank account as a result of attachment of the debtor's bank account is transferred by the agent to the party seeking enforcement according to the rules provided in subsection 1 of this section but not earlier than three working days following service of the attachment notice on the debtor. Any amounts that are credited after the attachment notice has been served on the debtor are transferred by the agent to the party seeking enforcement according to the rules provided in subsection 1 of this section but not earlier than three working days following the money being credited.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Any sums that are to be released to the party seeking enforcement or to the debtor are transferred from the enforcement agent's official bank account to the person's current account. If the person does not have a current account, money may be paid to such a person on the basis of a receipt drawn up in their name or by post. In order to transfer money by post, the agent issues a written order to which they append a list of recipients, which also sets out the addresses of the persons and the amounts to be transferred.

(3) Unless otherwise provided by law, any amount that has not been accepted by the party seeking enforcement is kept in the official bank account for five years following such an amount being credited to the account. When five years have passed, the amount is repaid to the debtor or, if repayment is impossible, transferred to the State budget.

## **Division 5**

### **Postponement of an Enforcement Operation, Suspension and Termination of Enforcement Proceedings**

#### **§ 44. Postponement of an enforcement operation**

An enforcement agent may postpone an enforcement operation on an application of the party seeking enforcement or on a corresponding judicial disposition or when the person conducting the enforcement proceedings is replaced.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

#### **§ 45. Suspension, extension and deferral of enforcement proceedings under a court order**

On an application of the debtor, the court may suspend enforcement proceedings or extend or defer enforcement if continuation of the proceedings is unfair in respect of the debtor. In such a situation, the interests of the party seeking enforcement and other circumstances have to be taken into account, including the family and financial situation of the debtor.

#### **§ 46. Suspension of enforcement proceedings based on a decision of the enforcement agent**

(1) The enforcement agent suspends enforcement proceedings:

- 1) on an application of the party seeking enforcement;
- 2) on presentation of a judicial disposition if, according to the disposition, the enforcement proceedings or the enforcement operation have to be suspended;
- 3) on presentation of a judicial disposition if, according to the disposition, the enforcement operation may be performed or the enforcement proceedings may be continued only subject to the provision of security;
- 4) on presentation of a written certificate if it is evident from such a certificate that the due date of the claim filed for enforcement has been postponed;
- 5) when the debtor's active legal capacity is restricted, until a guardian is appointed to them;
- 6) on the death of the spouse or of a lineally ascending relative or a descendant or a sister or brother of the debtor – based on a corresponding application, for a period of 30 days from the date of death;
- 7) where, in respect of an item of immovable property which is the subject matter of enforcement proceedings, a right that is recorded in the Land Register is in evidence, provided such a right precludes, or constitutes an impediment for, the sale of such an item;

7<sup>1</sup>) on presentation of a document, where it is evident from the document that the effect of recognition of a judicial disposition or official document of a foreign state that constitutes the enforceable title is suspended in its country of origin;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

- 8) on another ground provided by law.

(2) The enforcement agent may suspend enforcement proceedings:

- 1) when a complaint is filed against the actions of the agent;
- 2) when the debtor develops a serious illness or is receiving in-patient health services;
- 3) when the debtor is in compulsory military service, alternative service or reserve service;

[RT I, 10.07.2012, 2 – entry into force 01.04.2013]

- 4) on another ground provided by law.

## **§ 47. Consequences of suspension of enforcement proceedings and resumption of enforcement proceedings**

(1) When enforcement proceedings are suspended, the enforcement operations that have been performed retain their effect.

(1<sup>1</sup>) The enforcement agent draws up a decision on suspension or resumption of enforcement proceedings at the latest on the third working day after learning of a circumstance which constitutes grounds for suspension or resumption of enforcement proceedings.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1<sup>2</sup>) When enforcement proceedings are suspended, the enforcement agent sends the decision on suspension of enforcement proceedings without delay to a third party who is executing the agent's attachment notice concerning the debtor's property. The enforcement of any claim under the attachment notice is stayed for the time during which enforcement proceedings remain suspended. Any notes restraining disposition of the debtor's property remain effective.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018 – the number of subsection 1<sup>1</sup> was changed to 1<sup>2</sup>]

(2) Enforcement proceedings are resumed after the circumstance that caused the suspension ceases to apply. When enforcement proceedings are resumed, the enforcement agent transmits a corresponding note to any third party who owes an obligation to the debtor; such a note constitutes the basis for continuing the execution of the attachment notice.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Where circumstances change, the court may set aside or vary the order suspending enforcement proceedings.

## **§ 47<sup>1</sup>. Transfer of enforcement proceedings**

(1) The party seeking enforcement has a right to transfer proceedings in an enforcement case to another enforcement agent serving the same locality. The enforcement agent who conducted proceedings in an enforcement case has a right to charge the party seeking enforcement the enforcement agent's fee to the extent provided for in subsection 2 of § 41 of the Enforcement Agents Act and the enforcement agent to whom the case is assigned has a right to require the party seeking enforcement to make and advance payment towards the enforcement agent's fee as provided for in § 35 of the Enforcement Agents Act. If an enforcement case is transferred to another enforcement agent, any enforcement operations that have been performed in the case retain their effect.

(2) If an enforcement agent has conducted proceedings concerning a claim for at least four years, the party seeking enforcement has a right to transfer proceedings in the enforcement case to another enforcement agent serving the same locality. In this case, the enforcement agent who conducted proceedings in the enforcement case has a right to charge the party seeking enforcement the fee for commencement of enforcement proceedings and any enforcement expenses that have become due, and the enforcement agent to whom the case is assigned has a right to require the party seeking enforcement to make an advance payment towards the enforcement agent's fee as provided for in § 35 of the Enforcement Agents Act. Where an enforcement case is transferred to another enforcement agent, any enforcement operations that have been performed in the case retain their effect.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **§ 48. Grounds for termination of enforcement proceedings**

(1) The enforcement agent terminates enforcement proceedings:

- 1) on a corresponding application of the party seeking enforcement;
- 2) on presentation of a written document, where such a document shows that the claim of the party seeking enforcement has been satisfied;
- 3) when a sum of money required to satisfy the claim has been paid to the enforcement agent or when the operation stated in the enforceable title has been performed;
- 4) on presentation of a judicial disposition which sets aside the enforceable title accepted for enforcement or revokes the obligation to enforce such a title without delay, or which declares compulsory enforcement to be impermissible, or orders termination of compulsory enforcement in the case;
- 5) on presentation of a written document, where such a document shows provision of a security required to avoid enforcement;
- 6) on the death or winding up of the party seeking enforcement or of the debtor, provided the claim or obligation cannot pass to the heirs or legal successors of the deceased;
- 7) where commencement of enforcement proceedings was unjustified due to failure to comply with the conditions of enforcement procedure;

7<sup>1</sup>) on presentation of a document, where such a document shows that the effect of the judicial disposition or official document of a foreign state that serves as the enforceable title has been revoked in the state of origin;

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

7<sup>2</sup>) where a European account preservation order made under Regulation (EU) No 655/2014 of the European Parliament and of the Council is being implemented – if there are no funds in the bank account at the time it is preserved, or the funds are frozen in their entirety, except where the funds in the account are frozen in their entirety at the time the account is preserved and the order protects a child's claim for maintenance;

[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

8) on other grounds provided by law.

(2) Where the party seeking enforcement is in direct possession of an item of the debtor's movable property on which the party has a security right that secures their claim, the enforcement agent, on an application of the debtor, terminates enforcement proceedings regarding the rest of the debtor's property provided the amount of the claim is covered by such an item. If the party seeking enforcement also holds, regarding the item in question, such a right under another claim, the application is granted only if the other claim is also covered by the value of the item.

#### **§ 48<sup>1</sup>. Termination of enforcement proceedings on account of expiry of the limitation period for enforcing a claim which has been recognized by a judicial disposition that has entered into effect or which is inherent in another enforceable title**

(1) The enforcement agent terminates enforcement proceedings on account of expiry of the limitation period for enforcement if:

- 1) the debtor has presented an application to the agent for terminating the proceedings on account of expiry of the limitation period;
- 2) the period provided for in § 157 of the General Part of the Civil Code Act has elapsed since the claim inherent in a judicial disposition that has entered into effect or that is inherent in another enforceable title was first presented for enforcement and
- 3) the party seeking enforcement does not oppose termination of the proceedings.

(2) When the debtor presents the application, they have to pay a fee, in the amount provided in subsection 1 of § 41<sup>1</sup> of the Enforcement Agents Act, for the application to be considered. Where an application seeks the termination of proceedings in several enforcement cases, the fee for consideration is paid for each such case.

(3) If the debtor does not pay the fee provided for in subsection 2 of this section, the enforcement agent may disregard the application. In relation to an application that has been disregarded, no complaint lies against the actions of the agent under the rules of subsection 1 of § 217 of this Code.

(4) Termination of enforcement proceedings on account of expiry of the limitation period for enforcement of the claim does not exempt the debtor from bearing enforcement costs.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

#### **§ 49. Consequences of termination of enforcement proceedings**

(1) When enforcement proceedings are terminated, the enforcement agent, without delay, releases any attachments that have been imposed on property and files an application with the Registrar to remove any restraining notes from the relevant register, except when enforcing an order of interim protection of a court claim. The enforceable title is returned to the party seeking enforcement.

(2) Termination of enforcement proceedings does not prejudice the right of the party seeking enforcement to request the assistance of an enforcement agent anew if the claim arising from the enforceable title has actually not been fulfilled. The party seeking enforcement may not request such assistance anew if they have waived their claim in writing, or if enforcement proceedings concerning the claim have been terminated on account of expiry of the limitation period for enforcement.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

#### **§ 50. Rules concerning suspension and termination of enforcement proceedings**

(1) Enforcement proceedings are suspended or terminated by a decision of the enforcement agent. Before deciding on a suspension or termination, the party seeking enforcement and the debtor may be heard.

(1<sup>1</sup>) In a situation where a financial claim has been successfully collected, the enforcement agent may not make a decision to terminate enforcement proceedings before they have transferred the amount claimed to the party seeking enforcement and before any attachments imposed on the debtor's property have been released.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) A decision to terminate or suspend proceedings is sent to the debtor and to the party seeking enforcement. The decision is also sent to a third party if the suspension or termination was applied for by such a party.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

## **§ 50<sup>1</sup>. Rules for termination of enforcement proceedings in relation to expiry of the limitation period for enforcement of the claim**

(1) The enforcement agent transmits the debtor's application mentioned in clause 12 of subsection 1 of § 48<sup>1</sup> of this Code to the party seeking enforcement by a method of the agent's own choice, provided the condition set out in clause 2 of that subsection has been fulfilled, and sets a time limit for presenting written observations. When the agent transmits the application, they explain to the party seeking enforcement the debtor's right, provided by subsection 4 of this section, to file a petition with the court for termination of enforcement proceedings on account of expiry of the limitation period for enforcing the claim.

(2) Until the debtor's application has been disposed of, the enforcement agent does not transfer, to the party seeking enforcement, any monies that have been received to the agent's official bank account.

(3) The enforcement agent considers the debtor's application within 30 days from its reception and, within seven days following consideration, makes a decision by which they terminate enforcement proceedings or, without making a decision, notify the parties to proceedings of continuation of the proceedings.

(4) If the enforcement agent does not terminate enforcement proceedings under subsection 1 of § 48<sup>1</sup> of this Code, they inform the debtor of the debtor's right to file a petition with the court under § 223<sup>1</sup> of this Code for termination of the proceedings on account of expiry of the limitation period for enforcing the claim.

(5) Where enforcement proceedings are not terminated under subsection 1 of § 48<sup>1</sup> of this Code, no complaint lies against the actions of the enforcement agent under the rules of subsection 1 of § 217 of this Code.

(6) If, during consideration of the debtor's application, as a result of compulsory enforcement monies have been received to the official bank account of the enforcement agent, which, under subsection 2 of this section, have not been transferred by the agent to the party seeking enforcement, and the agent terminates the proceedings under subsection 1 of this section, the agent returns such monies to the debtor within five working days following expiry of the time limit for filing an appeal against the agent's decision.

(7) Where the enforcement agent does not terminate enforcement proceedings under subsection 1 of § 48<sup>1</sup> of this Code, and monies have been received as a result of compulsory enforcement to the agent's official bank account during consideration of the debtor's application, the agent transfers such monies to the party seeking enforcement, but not before 15 working days have elapsed since the debtor was notified of continuation of the proceedings.

23.03.2021

Correction – under subsection 4 of § 10 of the *Riigi Teataja* Act a manifest error in the word *arvates* has been corrected.

[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

## **§ 51. Termination of enforcement proceedings on declaration of bankruptcy**

(1) Enforcement proceedings end when the debtor is declared bankrupt, except in the situation provided for in § 51<sup>1</sup> of this Code.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

(2) When the debtor has been declared bankrupt, the enforcement agent, on an application of the trustee in bankruptcy, hands over, to the trustee, any documents relating to enforcement proceedings and any property of the debtor which is in the agent's possession or which has been entrusted for safekeeping to a third party, and notifies this to the party seeking enforcement. If the agent is conducting proceedings to enforce a decision or order made in a misdemeanour or a criminal case and enforcement proceedings are subject to termination due to the fact of the debtor having been declared bankrupt, the agent informs the party seeking enforcement of the possibility of applying for conversion of the sanction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) A record is drawn up concerning the transfer of documents, setting out a list of such documents, the property that has been handed over, the name of the trustee in bankruptcy and the date of the record. The enforceable title is appended to the record.

## **§ 51<sup>1</sup>. Special rules concerning the end of enforcement proceedings when the debtor is declared bankrupt**

(1) Where this is justified, the court may, primarily when, in enforcement proceedings, an auction has been announced concerning property that belongs to the debtor, decide that the enforcement agent is to hold the auction regardless of the debtor having been declared bankrupt.

(2) The enforcement agent deducts, from the proceeds of the sale, their fee and enforcement costs according to the provisions of the Code of Enforcement Procedure and the Enforcement Agents Act. The trustee in bankruptcy may file, in accordance with the rules provided in this Code, an appeal to the enforcement agent against the agent's decision imposing an obligation to pay the enforcement agent's fee and the costs of enforcement.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

## **Part 2**

# **ENFORCEMENT PROCEDURE FOR MONETARY CLAIMS**

## **Chapter 4**

# **GENERAL PROVISIONS FOR LEVIES ON PROPERTY**

### **§ 52. Methods of levy on property**

(1) Where property is to be levied upon, it is attached and sold. Satisfaction of the claim of the party seeking enforcement is provided out of the money received from the property's sale.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) Where an item of immovable property is levied upon, its compulsory administration may be ordered. In a situation of compulsory administration, satisfaction of the claim of the party seeking enforcement is provided out of the fruits received from such administration.

(3) Where a financial claim is filed against the State or against a local authority, a levy is made upon funds. If such a levy has not succeeded within a reasonable period of time, property is levied upon.

### **§ 53. Extent of attachment of property**

(1) Except where it is impossible to satisfy the claim of the party seeking enforcement in another manner, it is prohibited to attach more of the debtor's property than is necessary for satisfying such a claim and for covering the costs of enforcement.

(2) Property is not to be attached if it may be presumed that the funds raised by a sale of the objects to be attached will only cover the costs of enforcement.

(3) The enforcement agent determines the order of attachment of property after hearing the proposal of the party seeking enforcement. The order is determined having regard to the need to provide the speediest satisfaction possible to the claim of the party seeking enforcement, and to the fact that legitimate interests of the debtor may not be harmed.

### **§ 54. Restraint on disposition as a result of attachment of property**

(1) As of attachment, the debtor is prohibited from making any disposition of the property attached. Where an attachment that is imposed on an item of immovable property also extends to movable property, items of such property may be disposed of within the scope of regular management.

(2) Unless otherwise provided by law, a disposition transaction or any other disposition made in violation of a restraint on disposition is void.

(3) Where a restraint is imposed on dispositions of title, of a limited real right or of a pecuniary right, a restraining note is recorded in the relevant register in accordance with the rules provided by law. Insofar as it applies, a restraining note bars the making of any entries to the register without an application or the consent of the enforcement agent.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

### **§ 55. Void attachment**

An attachment is void and has no legal consequences if the procedural provisions concerning attachment have been materially infringed, primarily if:

- 1) property is attached without a valid enforceable title;
- 2) an enforcement notice has not been served on the debtor;
- 3) property was attached by a person who lacked the corresponding authority;
- 4) the debtor has, to an essential extent, not been notified of their rights under enforcement procedure and this has resulted in a violation of the debtor's rights.

### **§ 56. Extent of satisfaction of a claim**

(1) The claim of a party seeking enforcement is satisfied inclusive of any late interest and of any other ancillary claims whose amount appears in the enforceable title.

(2) When distributing any funds received under enforcement proceedings (hereinafter, 'proceeds'), the following priority order applies to cancellations of the debtor's debt: first, any costs to be borne by the debtor, then any ancillary claims that are being enforced and, finally, the principal debt and any interest that has accrued after attachment.

(3) Late interest accrues until the date of the auction or until the date of sale of the property by another method or until the end of compulsory administration.

#### **§ 57. Returning the remainder of funds to the debtor**

Any amount which remains of the funds received from the sale of property in enforcement proceedings after the costs of enforcement are covered and the claim is paid is returned to the debtor within five working days following the distribution of funds.

#### **§ 58. Claims in a foreign currency**

In enforcement proceedings, any claims or other rights expressed in a foreign currency are converted into euro based on the daily rate of the European Central Bank as on the date of satisfaction of the claim or distribution of the proceeds or the drawing up of the distribution plan.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

## **Chapter 5**

# **LIST OF PROPERTY AND THE DEBTOR'S OATH**

#### **§ 59. Obligation to provide information**

(1) A debtor must provide to the enforcement agent any information on the debtor's property which the agent needs in connection with enforcement proceedings.

(2) Third parties who are in possession of property belonging to the debtor or who owe pecuniary obligations to the debtor are also required to provide information concerning the debtor's property.

(3) An employee or a former employee of the debtor's whose employment relationship has ended during the year preceding the commencement of enforcement proceedings is also required to provide the information mentioned in subsection 1 of this section.

#### **§ 60. List of property**

(1) When the enforcement agent so demands, the debtor is required to present a list of their property, including any obligations.

(2) The list of property must, in addition to the property the debtor currently holds, set out:

1) any property which the debtor has transferred to connected persons within the meaning of § 117 of the Bankruptcy Act for a charge during the year preceding commencement of enforcement proceedings;

2) any property which the debtor has disposed of as a gift during two years preceding commencement of enforcement proceedings.

(3) Property that cannot be attached is included in the list only if such property's attachment with substitution of property is presumably possible.

#### **§ 61. Debtor's oath**

(1) On an application of the enforcement agent or of the party seeking enforcement, the court may require the debtor to swear an oath to confirm that the information presented to the enforcement agent concerning their property is accurate according to the debtor's best knowledge.

(2) The debtor takes the oath in court by speaking the following words:

"I (name) swear by my honour and conscience that the information presented to the enforcement agent concerning my property is correct to my best knowledge."

The debtor signs the text of the oath.

(3) Where the debtor is a legal person, the debtor's oath may be taken by a member of such a person's management body, its liquidator, the partner of a general or a limited partnership, a shareholder whose holding represents at least one tenth of the share capital, a procurator or a person responsible for accounting.

(4) In the case of a debtor who is a legal person, the debtor's oath may also be taken by a member of its management body, its liquidator, procurator or a person responsible for accounting who was released from their duties within one year following commencement of enforcement proceedings.

## **§ 62. Ensuring presentation of the list of property and the taking of the oath**

(1) If the debtor, without a valid reason, fails to present a list of their property to the enforcement agent or fails to comply with the obligation to take the oath, the court may compel the attendance of and, if necessary, impose a short-term custodial sentence on, the person obligated to present the list or take the oath.

(2) An order imposing a short-term custodial sentence sets out, among other things, the following:

- 1) the particulars of the party seeking enforcement and of the debtor;
- 2) the reason for the sentence;
- 3) the duration of the sentence, determining it to be discharged at the time of taking the debtor's oath or when the sentence has been served.

(3) An order imposing a short-term custodial sentence does not need to be served before it is enforced. On arrest, a copy of the order is handed to the debtor against a signed acknowledgement of receipt.

(4) A debtor may be ordered to serve a short-term custodial sentence of up to 30 days.

(5) A debtor has to be released from custody when they present a list of their property or take the oath.

(6) The short-term custodial sentence is served under the conditions provided for in the Imprisonment Act at the jail or prison serving the service area of the court that made the order or in which the residence of the sentenced person is located. Unless otherwise provided for in this Code, the provisions of the Code of Criminal Procedure concerning compelling a person's attendance apply.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(7) The debtor may, in accordance with the Code of Civil Procedure, file an appeal against an order by which the court ordered their arrest or subjected them to a short-term custodial sentence.

(8) Within the year following the taking of the oath, the debtor is only required to take the oath anew if the enforcement agent has reason to believe that the debtor has acquired property after having taken the oath.

## **§ 63. Register of Enforcement Proceedings**

(1) The Register of Enforcement Proceedings is a database that belongs to the State Information Systems and that is maintained for processing procedural information and personal data in enforcement proceedings for the following purposes:

- 1) to provide an overview of enforcement cases in which proceedings are being conducted by enforcement agents;
- 2) to reflect information concerning operations performed in the course of enforcement proceedings;
- 3) to ensure collection of statistical information concerning enforcement;
- 4) to make provision for electronic transmission of data and documents;
- 5) to distribute claims governed by public law between enforcement agents according to the rules established

on the basis of subsection 1 of § 23<sup>1</sup> of this Act.

[RT I, 31.12.2012, 5 – entry into force 01.01.2014]

(1<sup>1</sup>) Information on whether a person has an overdue maintenance debt and, where such a debt exists, the outstanding amount of the debt that is being collected, the name, telephone number and e-mail address of the enforcement agent collecting it, as well as the number of the enforcement case, is publicly available from the Register of Enforcement Proceedings.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1<sup>2</sup>) Information on whether a person has a debt that is being enforced and, if this is the case, the amount of such a debt according to the enforceable title, as well as the balance of the debt, is available in the Register of Enforcement Proceedings. Information is provided concerning enforcement proceedings in which the time limit for voluntary payment has expired.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1<sup>3</sup>) The fee for issuing, from the Register of Enforcement Proceedings, the information mentioned in subsection 1<sup>2</sup> of this section is 5 euros per person on each occasion. The fee is paid into the budget of the Chamber.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) The following information is entered in the database:

- 1) information concerning enforcement cases in which proceedings are ongoing and in which proceedings have been terminated;
- 2) information concerning operations performed in the course of enforcement proceedings;
- 3) digital documents related to enforcement proceedings;



4) information concerning the proceedings authority, the parties to the proceedings and any persons participating in the proceedings.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2<sup>1</sup>) The Minister responsible for the area enacts, by regulation, a detailed list of the documents and information to be entered in the database.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2<sup>2</sup>) When an entry has been made in the Register of Enforcement Proceedings, a person having access to the Register can presume that the corresponding enforcement operation has been carried out or the corresponding document has been drawn up. If there is no entry concerning an enforcement operation or document in the Register, and a dispute arises, the enforcement agent must prove when the enforcement operation was carried out or the document drawn up.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(3) [Repealed – RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(4) The controller of the Register of Enforcement Proceedings is the Chamber. Enforcement agents and the Ministry of Justice are processors of the Register.

[RT I, 05.03.2015, 2 – entry into force 06.03.2015]

(5) The constitutive regulations of the Register of Enforcement Proceedings are adopted by the Board of the Chamber's Enforcement Section.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

### **§ 63<sup>1</sup>. Electronic Attachment System**

(1) The Electronic Attachment System is an information channel created between the information systems of the Register of Enforcement Proceedings, the Register of Taxable Persons and each credit institution; the system's objective is to ensure electronic transmission, to the credit institution, of applications for operations concerning attachment of debtors' accounts and concerning the administration of such attachments, to allow inquiries to be made for information in the possession of the credit institution and to ensure secure transmission, without delay, of the parties' binding expressions of intent.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(1<sup>1</sup>) A government authority – and any institution within the area of administration of such an authority – that needs to use the Electronic Attachment System for the performance of a function prescribed by law may accede to the system provided the required technical capability is present.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) The Electronic Attachment System is established and its Constitutive Regulations are enacted by the Minister responsible for the area.

(3) The controller of the Electronic Attachment System is the Ministry of Justice. Authorized processors of the system are persons appointed by the Minister responsible for the area.

(4) The Minister responsible for the area enacts, by regulation, the rules and technical requirements for electronic checking of the opening of accounts and the rules for data processing in the Electronic Attachment System and for release of information from that system.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

## **Chapter 6 LEVIES ON MOVABLE PROPERTY**

### **Division 1 Attachment**

#### **§ 64. Attachment of property items that are in the debtor's possession**

(1) In order to attach property items that are in the debtor's possession, the enforcement agent draws up a list of such items and restrains the debtor from making any disposition concerning the items. Where a note restraining disposition of an item is entered in the relevant register on an application of the enforcement agent before

service of the attachment notice according to § 75 of this Code, the entry of the note is also deemed to constitute attachment of the item.

(2) Where the delay related to service of the enforcement notice may materially jeopardize attainment of the objectives of compulsory enforcement, the enforcement agent may attach the property of the debtor or have a restraining note entered in the relevant register before the enforcement notice is sent out.

(3) The enforcement agent may take possession of an item of property of which the debtor has indirect possession only with the consent of its direct possessor. If the direct possessor refuses to hand over the item, the enforcement agent may attach the debtor's right to claim the item from the third party in question.

(4) Where the enforcement agent has reason to believe that the debtor's property has been passed into the possession of a third party in order to evade attachment, the agent has a right to attach the property in the possession of the third party.

(5) The enforcement agent deposits any cash they have seized to their official bank account not later than on the working day following the seizure.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

## **§ 65. Security right arising by virtue of attachment**

(1) As of attachment and by virtue of the same, a security right arises on the attached item of property in favour of the party seeking enforcement.

(2) Unless otherwise provided by law, the security right arising by virtue of attachment grants the party seeking enforcement the same rights as a security right created under a contract or by law.

(3) The security right arising by virtue of an earlier attachment ranks above such a right arising by virtue of a subsequent one. A security right that arose prior to attachment under a contract or by law ranks above the security right that arises in favour of the party seeking enforcement by virtue of attachment.

(4) The security right arising by virtue of attachment based on a child's claim for maintenance ranks above any other security rights arising by virtue of attachment regardless of the time of attachment. The security rights arising by virtue of attachment based on a child's claim for maintenance have an equal ranking.

[RT I 2007, 25, 130 – entry into force 01.01.2008]

(5) [Repealed – RT I, 08.07.2016, 1 – entry into force 01.01.2017]

## **§ 66. Items of property exempt from attachment**

(1) The following items of property may not be attached or sold in enforcement proceedings:

- 1) personal effects of the debtor and household utensils, kitchenware, bedclothes, beds and other items of property used for domestic purposes which are essential to satisfy household needs, taking account of the amount of the debtor's debt;
- 2) at least one technical device which allows the debtor to exercise the right to receive information prescribed in subsection 1 of § 44 of the Constitution of the Republic of Estonia (RT 1992, 26, 349; RT I 2003, 29, 174; 64, 429);
- 3) foodstuffs to sustain the debtor and their family for one month and the fuel required to heat their dwelling during one heating period or, where such a supply is not present at the time of enforcement and its acquisition is not provided for in another manner, a sum of money required to acquire the supply;
- 4) any farming equipment, cattle, fertilizers and primary agricultural products of a person engaged in agriculture, which are essential for the debtor to maintain themselves and their family until the next harvest;
- 5) objects essential for a natural person to continue to pursue their economic or professional activities or their employment or service relationship;
- 6) books and other objects used by the debtor or a member of their family in for learning/teaching or worship purposes;
- 7) accounting documents, family records, marriage rings, orders and decorations belonging to a debtor;
- 8) artificial limbs, spectacles and other medical devices necessary due to a physical disability, which are used by the debtor or his or her family member;
- 9) objects necessary for a funeral to be held in the debtor's family;
- 10) a collection of a national or municipal museum or of a museum of a legal person in public law as well as any items belonging to such a collection, and a national museum collection or any items of such a collection that are being used by a foundation;
- 11) archival records;
- 12) other items of property whose attachment would be contrary to law or good morals.

[RT I, 21.03.2011, 1 – entry into force 01.01.2012]

(2) Items of property mentioned in clauses 1, 2, 4 and 5 of subsection 1 of this section may be attached if compulsory enforcement is demanded by a seller on account of a monetary claim secured by an ownership reservation on the sale of such items.

(3) Items of property necessary for worship activities mentioned in clause 6 of subsection 1 of this section may be attached if the manner in which the items are used is contrary to good morals or punishable.

(4) Attachment may not be imposed on State assets whose circulation in the private sphere is subject to restrictions or on items of property which a debtor State or a debtor local authority needs for the performance of public duties or whose alienation would be contrary to public interests. Before a decision is made, the opinion of a representative of the competent ministry or authority has to be heard.

#### **§ 67. Exempting animals from attachment**

(1) Attachment is not allowed in respect of animals that are kept at home for non-commercial purposes.

(2) On an application of the party seeking enforcement, the court may allow the attachment of a high-value animal, provided exempting such an animal from attachment would significantly violate the party's interests that are of a type that precludes giving effect to the interests of animal protection or of the legitimate interests of the debtor.

#### **§ 68. Attachment with substitution**

(1) An item of property mentioned in clauses 1, 2, and 5 of subsection 1 of § 66 of this Code may be attached if the party seeking enforcement, before seizing the item, gives the debtor a substitute that is fit for use but less valuable, or gives the debtor money for the acquisition of a substitute (hereinafter, 'attachment with substitution'). The value of the substitute or the sum of money paid for its acquisition is compensated to the party seeking enforcement from the proceeds of compulsory enforcement as enforcement costs.

(2) Where it is impossible for the party seeking enforcement to substitute an item of property at a proper time or the party cannot be expected to make such substitution, the enforcement agent may arrange attachment of the item with substitution, provided the debtor receives the money necessary for replacing the item from the proceeds of compulsory enforcement as enforcement costs.

(3) On an application of the party seeking enforcement, the enforcement agent decides on attachment with substitution and determines the value of a substitute item of property offered or the sum necessary for substituting the item.

(4) Money given to the debtor for the acquisition of a substitute item of property may not be attached.

#### **§ 69. Provisional attachment**

(1) If it may be presumed that an item of property that cannot be attached may become attachable in the near future, the item may be attached but has to remain in the possession of the debtor. Enforcement proceedings in respect of a provisionally attached item may be continued only after the item becomes attachable.

(2) The enforcement agent releases the attachment of an item of property if the item has not become attachable within six months following its provisional attachment.

#### **§ 70. Persons to be present when a list of property items is drawn up**

(1) A list of property items is drawn up in the presence of the debtor, their representative or a full-age member of their family. If the debtor, their representative or a full-age member of their family is not present when the items are attached, the enforcement agent enlists two witnesses or a police officer to be present at the attachment.

(2) The party seeking enforcement or a representative of such a party may be present when the list of property items is drawn up.

#### **§ 71. Leaving an item of property in the debtor's possession**

(1) Unless this jeopardizes satisfaction of the claim of the party seeking enforcement, the enforcement agent may leave an attached item of property in the debtor's possession. Cash, valuables or securities in the form of documents are not left in the debtor's possession.

(2) When an item of property is left in the debtor's possession, it has to be sealed or otherwise marked in order to make its attachment apparent.

### **§ 71<sup>1</sup>. Handing over a maintenance debtor's vehicle or other property registered in the Motor Register to the enforcement agent**

(1) If a maintenance debtor has not voluntarily handed over a vehicle or other property registered in the Motor Register against which a note prohibiting disposition has been recorded in that register, the enforcement agent may, if this is necessary, enlist the assistance of a police officer to take control of such a vehicle or other property which is in the direct possession of the debtor.

(2) Where the enforcement agent wishes to enlist the assistance of a police officer for taking possession of a vehicle or other property registered in the Motor Register against which a restraining note has been entered in the register, they record a supplementary note that reads 'Üle anda kohtutäiturile' [To be handed over to the enforcement agent] to the note restraining disposition of such a vehicle or other object.

(3) When a vehicle or other property registered in the Motor Register is taken for preservation by a police officer under a note mentioned in subsection 2 of this section, it is deemed to have passed into the possession of the enforcement agent who recorded a note concerning the handing over of such a vehicle or other property.

(4) In a report concerning the handing over of possession of a vehicle or other property registered in the Motor Register, a police officer records the particulars of the property and its overall condition, the particulars of the maintenance debtor and of the enforcement agent who entered the note concerning the handing over of such property. The officer transmits the report to the enforcement agent who entered the note.

(5) A specific list of particulars to be recorded in a report mentioned in subsection 4 of this section is enacted by a regulation of the Minister responsible for the area.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

### **§ 71<sup>2</sup>. Rights of a police officer when handing over a maintenance debtor's vehicle or other property registered in the Motor Register to the enforcement agent**

(1) In order to hand over possession of a vehicle or other property registered in the Motor Register against which a note restraining disposition has been recorded in that register, a police officer has a right to:

- 1) acquaint themselves with any information held in a police database concerning the vehicle or other property;
- 2) acquaint themselves with the particulars recorded in the Motor Register concerning the owner of the vehicle or other property and any notes prohibiting disposition or mandating the handing over of the vehicle or other property to the enforcement agent;
- 3) ascertain the identity of a possessor of the vehicle or other property in accordance with the rules provided in § 32 of the Law Enforcement Act;
- 4) stop the vehicle or other property in accordance with the rules provided in § 45 of the Law Enforcement Act;
- 5) take the vehicle or other property for preservation by using, in order to achieve this, if necessary, direct coercion in respect of the maintenance debtor in accordance with the rules provided in the Law Enforcement Act for as long as is unavoidably necessary to achieve the required purpose;
- 6) hand the vehicle or other property over to a person notified to the Police and Border Guard Board by the Chamber of Enforcement Agents and Trustees in Bankruptcy.

(2) A police officer may also acquaint themselves with the information provided for in clause 2 of subsection 1 of this section in order to ascertain whether or not a note mandating the handing over of the vehicle or other property to an enforcement agent is on record.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

### **§ 72. Entrusting attached property for safekeeping to a third party**

(1) Where the enforcement agent does not assume possession of an item of attached property and does not leave it in the possession of the debtor, they may hand such an item over for safekeeping to a third party.

(2) A bailee of the property is appointed by agreement between the debtor and the party seeking enforcement.

(3) If the debtor and the party seeking enforcement do not agree on a bailee, one is appointed by the enforcement agent. The agent may not appoint, as bailee, the party seeking enforcement or any other person with a similar economic interest, or any relative of the agent's, by blood or marriage.

(4) A property item is handed over for safekeeping on the basis of an attachment notice. When handing over the item, the enforcement agent explains to the bailee their obligations and the consequences of violating them.

(5) Where the bailee, without justification, does not return the item that has been handed over to them for safekeeping when this is required by the enforcement agent, the party seeking enforcement may apply for the item to be seized from the bailee. Where seizure requires entry upon any premises or land used by the bailee, such an entry may be made under a court order. The order is made on an application of the enforcement agent.

(6) The bailee's fee and any costs incurred for the item's safekeeping are included in the costs of enforcement.

(7) The bailee's responsibility for the safekeeping and return of any item that they have been entrusted with is subject to the provisions of the Law of Obligations Act governing a bailee's liability. The party seeking enforcement is deemed the bailor.

### **§ 73. Third parties' objections to attachment**

(1) A pledgee or any other person having a similar priority right in respect of a property item may not contest its attachment.

(2) If a third party, at the time of attachment, asserts to be the owner of the property item to be attached, a note concerning such an objection is made on the attachment notice. The enforcement agent explains to the third party their right to make a court claim for setting the attachment aside.

### **§ 74. Appraisal of attached property**

(1) When an item of property is attached, such an item is appraised and its price is stated in the attachment notice.

(2) Where it is not possible to appraise an item of property at the time of attachment, an appraisal has to be carried out without delay after such a time. The results of the appraisal are stated in the attachment notice.

(3) Property items that have been attached are appraised by agreement between the debtor and the party seeking enforcement.

(4) Where the debtor and the party seeking enforcement do not agree concerning appraisal of the property, and also where at least one of them is not present at the time of attachment, the property is appraised by the enforcement agent.

(5) The enforcement agent appraises an item of property based on its usual value, taking account, among other things, of any rights of third parties encumbering the item and the possibility of such rights being subject to extinguishment.

(6) Where appraising an item of property presents difficulties, the enforcement agent commissions an expert to appraise the item.

(7) The debtor or the party seeking enforcement may contest a price determined by the enforcement agent by filing an appeal with the agent according to the rules provided in § 217 of this Code.

(8) Where the price is contested, the enforcement agent applies to the court to appoint an expert to arrange a new appraisal.

(9) The costs of appraisal by an expert appointed by the court are borne by the person who contested the appraisal. The person who contested the appraisal pays the costs of appraisal in advance. If such a person does not pay the costs by the time set by the court, they are deemed not to have contested the appraisal.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

### **§ 75. Attachment notice**

(1) When attaching an item of property, the enforcement agent draws up a corresponding attachment notice; the form of the notice is enacted by a regulation of the Minister responsible for the area.

(2) An attachment notice is signed by the enforcement agent, by the bailee to whom the item is handed over, by the debtor and by any other persons present at the time of attachment. Should a person refuse to sign, a corresponding note is made on the notice.

(3) An attachment notice is drawn up as a single-copy original document, which is kept in the enforcement file. A copy of the notice is given to the debtor or any representative or full-age family member of the debtor present at the time of attachment, as well as to the party seeking enforcement and to the bailee.

(4) If the debtor is not present at the time of attachment, the attachment notice is served on the debtor. In such a situation, a property item is deemed to be attached as of service of the notice.

(5) Where the debtor or the party seeking enforcement who is present at the attachment of property does not make any representation or comment concerning such property, they do not have a right to file a complaint invoking the erroneous drawing up of the corresponding notice or to subsequently rely on its being erroneous.

## **§ 76. Attaching an item of property for the benefit of another party seeking enforcement**

- (1) In order to impose a second attachment on an item already attached, the enforcement agent adds, to the attachment notice, the particulars of the other party seeking enforcement and a note that the item has already been attached.
- (2) If the first attachment on an item of property was imposed by another enforcement agent or by the Tax and Customs Board, a copy of the attachment notice has to be served on them.
- (3) A notice concerning each attachment has to be served on the debtor and on the party seeking enforcement.

## **§ 77. Releasing the attachment of an item of property**

- (1) At the request of a party seeking enforcement and with the consent of the debtor, an enforcement agent releases the attachment of an item of property, even if the rest of the property that has been attached is not sufficient to execute the enforceable title.
- (2) On an application of a third party, the enforcement agent releases the attachment of an item of property if it is evident that the item attached belongs to the third party. The enforcement agent notifies the party seeking enforcement, without delay, of having released the attachment.
- (3) If a third party applies for release of the attachment of an item of property and the enforcement agent refuses to grant the application, the agent explains to the third party their right to make a court claim for releasing the attachment.
- (4) The enforcement agent releases the attachment of an item of property if the item cannot be sold within a reasonable period of time. The agent notifies the party seeking enforcement, without delay, of having released the attachment.
- (5) When the attachment of an item of property subject to a registration requirement is released, the Registrar removes a restraining note recorded in the register on the submission of the enforcement agent.

# **Division 2**

## **Sale under Enforcement Procedure**

## **§ 78. Public auction**

- (1) Unless otherwise provided for in this Code, an item of movable property that has been attached is sold by the enforcement agent at a public electronic auction.
- (2) Where an electronic auction is not possible for reasons beyond the control of the enforcement agent, an oral auction may be held.
- (3) Where, according to an attachment notice, the price of items of movable property that have been attached is up to 2000 euros, the enforcement agent may delegate their sale to the Chamber.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

## **§ 79. [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]**

## **§ 80. Time of auction**

- (1) The time of an auction is determined by the enforcement agent.
- (2) Unless the party seeking enforcement and the debtor agree on an earlier date, the enforcement agent may not hold an auction before ten days have elapsed after the item of property was attached.
- (3) The enforcement agent may hold an auction before ten days have elapsed after attachment if it appears that, should the aforementioned time limit be observed, the value of the item of property to be auctioned would significantly decrease or if unreasonably high holding costs would be incurred by holding the item.

## **§ 81. Place of an auction**

- (1) Electronic auctions are held online in an electronic auction environment (hereinafter, ‘auction environment’).
- (2) If the enforcement agent arranges a public oral auction, the agent determines the place where the auction is to be held, having regard to the possibilities for selling the item to be auctioned and the auction’s costs.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

## § 82. Starting price at the auction

(1) The starting price of an item of property at the auction is the price that results from the item's appraisal and that is stated in the attachment notice.

(2) The enforcement agent has a right to change the starting price, after the notice of the auction has been published, on the grounds of being made aware of rights, and of their substantiation, provided the price stated in the attachment notice is likely to be different from the market price. A right of which, and of whose substantiation, the agent is not made aware after publication of the auction announcement is not taken into account when determining the starting price.

(3) Before changing the starting price, the enforcement agent asks the opinion of the party seeking enforcement and of the debtor concerning the change.

## § 83. Deposit at the auction

(1) Where an auction is arranged, the enforcement agent may set a deposit for the participants in an amount of up to ten percent of the starting price. If a deposit has been set, any person who wishes to participate in the auction must pay it.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2) The deposit is paid, when registering for the auction, into the account specified by the enforcement agent or to the agent in cash. If the deposit is paid into the account specified by the agent, it is deemed to have been paid when the agent's account is credited with the corresponding amount. The deposit may be paid in cash if its amount does not exceed 640 euros.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2<sup>1</sup>) If the deposit is paid in the auction environment using a method of payment that is provided by the service provider and that allows payments to be processed immediately, the deposit is deemed paid to the enforcement agent as of the crediting of the central account of the Chamber in the amount of the deposit. The person participating in the auction bears the costs relating to the payment of the deposit by such a method.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2<sup>2</sup>) The Minister responsible for the area enacts, by regulation, detailed rules and requirements for payment of deposits in auction environments using a method of payment that is provided by the service provider and that allows payments to be processed immediately.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(3) The enforcement agent may also accept, as a deposit, a permanent payment warranty, irrevocable payment warranty or unconditional payment warranty of a credit institution of Estonia or another Member State of the European Union, which is issued for the amount of the deposit.

(4) The following persons are not required to pay the deposit:

- 1) the State or a local authority or the *Eesti Pank*;
- 2) the party seeking enforcement and the pledgee, if their claim covers the deposit required.

(5) The deposit paid by the purchaser is included in the purchase price; for other participants in the auction, their deposit is refunded on the working day following the date of the auction.

## § 84. Notification of an auction

(1) An auction announcement sets out:

- 1) the beginning and place of the auction and the rules and time limit for registering for the auction;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 2) a general description of the items of property to be auctioned;

3) the starting price, the rules for payment, the amount of the deposit and the time limit for the payment of the purchase price and of the deposit;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 4) the time and place for examining the items of property to be auctioned;

5) any ascertained rights of third parties encumbering the item of property to be auctioned and other encumbrances and restrictions relating to such an item;

6) an invitation to members of the public to inform, before the auction, the enforcement agent of their rights concerning the item of property to be auctioned – If the agent has not yet been informed of such rights – and to substantiate such rights if this is required by the agent;

7) an invitation to persons who hold rights that constitute an obstacle to the auction, to obtain, before the date of distribution of the proceeds, the termination or suspension of the auction under an agreement with the party seeking enforcement or under a judicial disposition,;

8) [repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

9) where an auction is held electronically, the time when the auction is scheduled to end and its dynamic extension period.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

(2) The announcement is published at least ten days before the auction in the publication *Ametlikud Teadaanded* and in a public computer network. The enforcement agent may also publish the announcement in a newspaper which is circulated in the locality where the auction is to be held. At the request of the party seeking enforcement or of the debtor, the enforcement agent publishes the announcement in other editions at the expense of the party seeking enforcement or of the debtor.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2<sup>1</sup>) [Repealed – RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(3) The debtor and the party seeking enforcement are informed of the substance of the auction's announcement at least ten days before the auction.

(4) The enforcement agent may also publish the announcement less than ten days before the auction or the auction may be given notice of in a manner or within a time limit different from that provided for in subsections 2 and 3 of this section if the item of property is likely to be destroyed or damaged or its value may decrease significantly.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

### **§ 85. Right to examine the items of property to be auctioned**

(1) From the publication of the announcement until the beginning of the auction, interested persons have a right to examine the items of property to be auctioned.

(2) The enforcement agent sets a specific time for examining the items. If the items are in the possession of the debtor, the debtor has a right to require that examination take place during the hours prescribed for enforcement operations. The enforcement agent must take the interests of the owner into consideration.

(3) Interested persons have a right to examine any representations made in respect of an item of property to be auctioned and any evidence concerning the item, including appraisal reports.

### **§ 86. Written bid**

(1) A person who wishes to purchase an item of movable property at an oral auction of the movable may, until the beginning of the auction, submit to the enforcement agent a written bid which sets out:

[RT I 2009, 68, 463 – entry into force 01.01.2010]

- 1) the name, residence or seat of the person offering the price;
- 2) a general description of the item of property;
- 3) the price offered for the item of property.

(2) A written bid must be submitted in a closed envelope. The envelope is opened at the auction.

### **§ 87. Persons who are allowed to bid at an auction**

(1) Unless otherwise provided by law, any person may participate at an auction as a bidder. The debtor and the party seeking enforcement may also make bids at the auction.

(2) Neither the enforcement agent nor a person who was present at the attachment of property as a witness, nor the person who is holding the auction or serves as a witness at the auction, nor any person acting for the account of such a person may participate in the auction, either in person or through a representative. The enforcement agent notifies this to participants of an oral auction before the beginning of the auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) Any sale of the property to a person mentioned in subsection 2 of this section, and any disposition of such property by such a person is void. If a new auction has to be held for this reason, the infringing person bears the costs of holding the new auction and pays any difference between the price offered by themselves and that offered at the new auction, should the price offered at the new auction be lower than the price offered by the person.

### **§ 87<sup>1</sup>. Rules regarding registration for an auction**

(1) Registration for an auction takes place before the auction begins.

(2) Where an item of movable property is to be auctioned whose value does not exceed 1000 euros, registration for the auction is possible immediately before the making of a bid.



(3) A person who wishes to participate in an auction registers themselves according to the rules and within the time limit set out in the auction's announcement and pays a deposit according to the rules provided in subsections 2 and 2<sup>1</sup> of § 83 of this Code.

(4) A person is registered as a participant in the auction if their registration application and any annexes to such an application comply with the requirements of the auction, if their deposit has been paid and if the person may participate in the auction as a bidder.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

#### **§ 88. Rules for oral auctions**

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) At the beginning of an oral auction, the enforcement agent makes an announcement that sets out any material conditions in relation to the property on auction, the parties seeking enforcement who participate in the proceedings, such parties' claims, the time of attachment of the items of property, the applications that have been made, the conditions of the auction and the starting price. The conditions of an oral auction include, among other things, the bidding increment which is set by the enforcement agent having regard to the value of the item of property on auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Where the starting price that has been set differs from the price stated in the attachment notice, at the beginning of the oral auction the enforcement agent must state the reasons for setting such a price.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(3) After the conditions have been announced, the enforcement agent opens any written bids that have been received and invites the participants to make additional bids.

(4) Property is sold at an oral auction in the order set out in the attachment notice.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(5) An oral auction is conducted in the presence of two witnesses, a representative of the local authority or a police officer.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

#### **§ 88<sup>1</sup>. Rules for electronic auctions**

(1) At the beginning of an auction, the enforcement agent makes an announcement in the auction environment which sets out, according to § 84 of this Code, any material conditions that relate to the property on auction and to the auction, as well as the starting price. The enforcement agent sets the bidding increment for the auction having regard to the value of the item of property on auction. Where this is justified, the agent may set a starting price which differs from the price stated in the attachment notice.

(2) An electronic auction is opened in the on-line environment at the time announced to the public by a method mentioned in subsection 2 of § 84 of this Code. An electronic auction remains open for at least five working days. The duration of an auction may be reduced in a situation mentioned in subsection 3 of § 80 of this Code.

(3) [Repealed – RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) When an auction has been opened, the participants start bidding from the starting price. The participants make their bids electronically in full euros in accordance with the bidding increment.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(5) An electronic auction terminates at the time stated in the auction's announcement. If a new bid is made during a final time segment of the auction that is equal to the auction's dynamic extension period, the duration of the auction is automatically extended by such a period and the auction lasts until bidding continues. The dynamic extension period is 1–60 minutes. If an auction whose duration has been automatically extended has not ended earlier, it ends when 120 hours have elapsed from the end time of the auction as stated in the announcement.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

(6) The Minister responsible for the area may, by regulation, enact technical requirements for conducting electronic auctions.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

## **§ 88<sup>2</sup>. Rules for simplified auctions**

(1) A simplified auction is conducted by a person authorized by the Chamber. A simplified auction has to be conducted efficiently and at the minimum possible cost.

(2) An announcement of a simplified auction is published on the website of the Chamber at least three working days before the auction is held. The announcement sets out a general description of the items of property to be sold at the auction and the time and place for examining such items.

(3) The debtor and the party seeking enforcement have to be informed of the substance of the announcement of a simplified auction at least three working days before the auction.

(4) The time limit mentioned in subsections 2 and 3 of this section does not apply if the item to be auctioned is highly perishable.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

## **§ 89. Rejection of bids**

(1) The enforcement agent rejects any invalid bid. Primarily, the following are deemed to be invalid:

- 1) a bid that does not cover the starting price;
- 2) a bid by a person who is not allowed to participate in the auction;
- 3) a contingent bid.

(2) The enforcement agent may reject a bid made with the intention of causing the auction to fail.

(3) If the validity of a bid depends on the scope of the right of representation of the bidder's representative, or on the consent of another person, the enforcement agent rejects the bid unless the right of representation or consent is proved without delay.

## **§ 90. Duration of an oral auction**

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) An oral auction is continued until the enforcement agent's call for bids elicits no further overbids.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]

## **§ 91. Declaration of winning bid**

(1) Where the auction is an oral one, the enforcement agent announces, at the auction, the last overbid and the end of the auction. The last overbid at an oral auction is declared to be the winner after it has been announced three times.

(2) Where the auction is an electronic one, the bid with the highest price submitted in the auction environment by the end of the auction is declared to be the winner.

(3) If the winning bidder has assigned the rights to purchase the item to another person and the other person also assumes the obligations arising from the winning bid, the corresponding applications are made to the enforcement agent during the time limit for payment of the purchase price.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) The enforcement agent does not declare a bid to be the winner if the conditions of the auction have been materially violated or if the auction or a continuation of the auction is barred by the right of a third party.

(5) The winning bid is announced to the participants of an oral auction at the place of the auction on the day of the auction and, in the case of an electronic auction, in the auction environment on the working day following the date of the auction. If a bidder was present at the opening of the bids, they are deemed to have been informed of the results of the auction. In exceptional cases, the enforcement agent may postpone the announcement by up to seven days. The agent notifies any postponement to the participants of the auction without delay.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) A declaration of the bid to be the winner becomes effective at the time it is announced.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

## **§ 92. Objections of persons present at an oral auction**

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1) After the announcement of the last overbid, the persons present may voice their objections to the conduct of the auction. They are informed of this right by the enforcement agent.

(2) The enforcement agent records the objections in the report of the auction.

(3) If the persons present voice no objections, they do not have a right to complain of the report having being drawn up inaccurately, nor may they subsequently invoke such inaccuracies or any material violation of the auction's conditions.

### **§ 92<sup>1</sup>. Objections of participants in an electronic auction**

Participants in an electronic auction may file objections concerning the conduct of the auction within the working day following the date on which the auction ended. Any objections that are filed and the consequences of failure to file an objection are subject to the provisions of subsections 2 and 3 of § 92 of this Code.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

### **§ 93. Obligation to pay the purchase price immediately**

(1) The winner of an oral auction pays the purchase price immediately after the end of the auction.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) If the purchase price exceeds 12,700 euros, the winner of an oral auction must pay one tenth of the purchase price immediately after the end of the auction and the rest of the price has to be paid within 15 days. Where the debtor is the purchaser, they must immediately pay the entire purchase price.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(2<sup>1</sup>) The winner of an electronic auction must pay the purchase price on the working day following the date of termination of the auction in a manner provided for in subsection 3 of this section. If the purchase price exceeds 12,700 euros, one tenth of the purchase price has to be paid on the working day following the date of termination of the auction and the rest of the price has to be paid within 15 days. If the debtor is the purchaser, the entire purchase price has to be paid on the working day following the date of the auction.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) For the purposes of subsections 1 and 2 of this section, immediate payment means payment of the purchase price in cash or to the account specified by the enforcement agent. If the purchase price is paid to the account specified by the agent, the purchase price is deemed to have been paid to the enforcement agent as of the crediting of the account of the enforcement agent with the amount of the purchase price. The agent may accept as immediate payment also a permanent, irrevocable and unconditional payment warranty of a credit institution of Estonia or if another Member State of the European Union provided at least for the amount of the purchase price.  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) If the purchaser is the party seeking enforcement and if the party's claim exceeds or is equal to the purchase price, a set-off is made with such a claim to the extent that corresponds to the share the party would be entitled to receive on distribution of proceeds from the sale of the property purchased. The share of the purchase price that was not set off is paid by the party to the official bank account of the agent according to the rules provided in this section.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(5) The item of property is handed over to the purchaser after the entire purchase price has been paid.

(5<sup>1</sup>) If the purchase price is paid in the auction environment by means of a method of payment which is provided by the payment service provider and which allows the payment to be processed immediately, the purchase price is deemed to have been paid to the enforcement agent as of the time when an amount covering that price is credited to the central account of the Chamber. The buyer covers the costs related to payment of the deposit by the same method.  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(5<sup>2</sup>) The Minister responsible for the area enacts, by regulation, detailed rules and requirements for payment of the purchase price in auction environments using a method of payment which is provided by the payment service provider and which allows payments to be processed immediately.  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) Where this is requested by the purchaser, the enforcement agent extends the term for the payment of the purchase price provided for in subsections 2 and 2<sup>1</sup> of this section by an additional period of 15 days. The agent formalizes the extension as a decision. The decision is transmitted to the debtor, to the party seeking enforcement, to the person who made the winning bid and to any persons whose rights regarding the property item on auction are known to the enforcement agent.  
[RT I, 22.12.2020, 34 – entry into force 01.01.2021]

### **§ 93<sup>1</sup>. Payment of the purchase price by means of a loan**

(1) If a purchaser wishes to buy an item of property sold at an auction by means of a loan issued by a credit institution, they notify this to the enforcement agent without delay after their bid is declared to be the winner. Immediate notification means notification that is made to the enforcement agent on the date on which the bid was declared the winner.

(2) The obligation provided for in § 93 of this Code, to pay one tenth of the purchase price or the entire purchase price without delay, does not apply to the purchaser when the purchase price is to be paid by means of a loan. The purchaser undertakes to pay the entire purchase price or arrange for the performance of the obligation to pay the purchase price by a credit institution within 15 days from the day following the date the purchaser's bid was declared to be the winner.

(3) The debtor cannot apply to pay the purchase price by means of a loan.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

### **§ 94. Increasing the amount to be paid**

(1) If it turns out, after the auction, that the security right or any other right taken into account when determining the starting price is not valid or has been extinguished, a purchaser who knew or should have known that such a right is not valid or has been extinguished must also pay, in addition to the purchase price, the amount provisioned on determination of the starting price to the extent of the right's value.

(2) The provisions of subsection 1 of this section also apply if the right is conditional and the suspensive condition is not, or the resolutive condition is, fulfilled and the purchaser knew or should have known that when making their bid.

### **§ 95. Acceptance of proceeds of auction**

(1) The proceeds of an auction is the amount of money corresponding to the winning bid. The proceeds are paid to the enforcement agent. The rules governing reception and handing over, to the party seeking enforcement, of the proceeds are enacted by a regulation of the Minister responsible for the area.

(2) Any amount that remains after enforcement costs have been covered and the claim has been satisfied is returned to the debtor.

### **§ 96. Auction report**

(1) The enforcement agent draws up an auction report which is signed by the agent and by the witnesses. The form of the report is established by a regulation of the Minister responsible for the area.

(2) Among other things, the report of an auction sets out the following particulars:

- 1) the particulars of the item of property on auction;
- 2) the name and personal identification code or register code of the purchaser;
- 3) the price of the winning bid and the manner and term of payment;
- 4) the conditions for the item to be handed over.

(3) If an item of property has to be registered in the name of the purchaser in a register, such registration is performed on the basis of a copy of the auction report.

(4) The enforcement agent serves the auction report on the party seeking enforcement, to the debtor, to the person who made the winning bid and to any persons whose rights regarding the item of property on auction are known to the agent.

### **§ 97. Termination of auction before sale of items of property**

(1) An oral auction is terminated if, after the beginning of the auction but before the last bid is declared the winner, the debtor or a third party who has a right to pay the claim of the party seeking enforcement pays, to the enforcement agent, a sum of money required to provide satisfaction of the claim of the party seeking enforcement and to cover the costs of enforcement.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1<sup>1</sup>) If the debtor's property is sold at an electronic auction, the debtor has a right to satisfy the claim of the party seeking enforcement before the end of the electronic auction. If the debtor or a third party pays, to the enforcement agent, a sum of money required to satisfy the claim of a party seeking enforcement and to cover the costs of enforcement, the agent, without delay, cancels the auction that is being conducted in the auction environment and notifies the participants of the auction's termination. Any deposits paid by the participants are refunded not later than on the next working day.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) When the money received at the auction from the sale of a portion of the items of property is sufficient to satisfy the claim of the party seeking enforcement and to cover the costs of enforcement, the auctioning of the remaining items of property is terminated.

#### **§ 98. Legal consequences of an auction**

(1) The right of ownership regarding an item of property sold at an auction arises when the item of property is handed over on the basis of the auction report.

(2) The right of ownership does not arise if the attachment is void or if material conditions of the auction have been infringed and the court has declared the auction void. This applies regardless of whether or not the person who purchased the item of property at the auction was aware of the aforementioned circumstances.

(3) The prerequisites provided for in the Law of Property Act do not need to have been complied with for a right of ownership to arise – primarily, the claim set out in the enforceable title does not need to exist actually and the item of property sold at the auction does not need to belong to the debtor. This does not preclude the making of claims for compensation for unlawfully caused harm.

(4) Where the acquirer has paid the price of the auction but, due to the reasons mentioned in subsection 2 of this section, no right of ownership arose, they may make a claim against the party seeking enforcement on the grounds of unjustified enrichment. This does not preclude claims for compensation for unlawfully caused harm.

(5) The right of pre-emption cannot be exercised at an auction.

#### **§ 99. Failure of an auction**

(1) The enforcement agent declares an auction to have failed, if:

1) no participants appear at the auction or no written or electronic bids are submitted;

[RT I 2009, 68, 463 – entry into force 01.01.2010]

2) no bid is submitted that would at least match the starting price;

3) the winning bidder does not pay the purchase price, or one tenth of such a price, by the prescribed time;

4) all bids are rejected.

(2) When an auction fails, the security right on attached property that arose in favour of the party seeking enforcement remains in effect.

#### **§ 99<sup>1</sup>. Suspension of auction due to interruption in auction environment**

If there is an interruption in the auction environment during the end phase of an auction, the auction is suspended for the duration of the interruption and continues after the interruption ends. The end time of the auction is extended by the period for which the auction was interrupted.

[RT I, 31.12.2012, 5 – entry into force 01.01.2013]

#### **§ 100. Repeat auction**

(1) Where an auction fails, the party seeking enforcement may require a repeat auction to be held.

(1<sup>1</sup>) If a repeat auction is organized, the enforcement agent selects either an electronic or an oral auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) A repeat auction is not held earlier than ten days after the first auction is declared to have failed, except in the situation provided for in subsection 4 of § 84 of this Code.

(3) If the purchaser violates the obligation to pay, for the item of property purchased at the auction, the purchase price or one tenth of the purchase price, the item is immediately put up for a repeat auction. At an oral auction, the enforcement agent, when concluding the auction, informs the participants of the possibility of holding a repeat auction. In such a case, the agent does not have a right to reduce the price of the item at the repeat auction.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) An initial purchaser may not participate in a repeat auction held due to the circumstances mentioned in subsection 3 of this section. The deposit paid by such a purchaser is not refunded, and is transferred to the common part of the Chamber's budget. The initial purchaser must also pay the difference between the price offered by them and the price offered at the repeat auction, if the price offered at the repeat auction is lower than the price offered by the initial purchaser. The debtor has a right to collect the aforementioned price difference from the initial purchaser.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

[RT I, 27.06.2019, 2 – entry into force 21.06.2019 – by judgment of the Constitutional Review Chamber of the Supreme Court, the second sentence of subsection 4 of § 100 of the Code of Enforcement Procedure is declared unconstitutional and invalid insofar as the enforcement agent has no discretion in deciding, concerning the return of a deposit paid by a participant in an auction held as part of enforcement proceedings, on the proportion in which such a deposit has to be returned to the person who paid it and on the proportion that has to be transferred to the common part of the budget of the Estonian Chamber of Enforcement agents and Trustees in Bankruptcy.]

(5) A repeat auction is conducted according to the rules set for the first auction. The enforcement agent may reduce the price of the items, but not more than by 25 percent compared to the starting price of the previous auction, having asked the debtor and the party seeking enforcement or, in a situation provided for in subsection 1 of § 51<sup>1</sup> of this Code, the trustee in bankruptcy in the stead of the debtor, to state their opinion concerning the reduction. The price of the items may not be reduced by more than 70 percent compared to their starting price at the first auction.

[RT I, 04.01.2021, 4 – entry into force 01.02.2021]

### **§ 101. Sale of an item of property by another method**

(1) On an application of the party seeking enforcement and of the debtor, the enforcement agent may sell attached items of property using a method other than an oral or electronic auction, provided the auction has failed or it can be presumed that the item of property cannot be sold at an auction or the proceeds estimated from the item's sale at an auction are significantly lower compared to the proceeds of a sale by another method.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Where an auction has failed due to the obligation to pay the purchase price not having been complied with, the enforcement agent may sell property by a method other than an auction only if the repeat auction too has failed.

(3) The enforcement agent serves a notice of intention to sell items of property by another method on the debtor and on the party seeking enforcement. Without the consent of a party, the agent may not sell the items before seven days have passed after service of the notice.

(4) When selling by another method, the enforcement agent may reduce the property's price, but not more than by 50 percent compared to the price stated in the attachment notice, after requesting the opinion of the debtor and of the party seeking enforcement concerning the reduction.

(5) The enforcement agent may sell an item of property to the party seeking enforcement. In such a case, a set-off is made with the claim of the party seeking enforcement and the purchase price is deemed to be paid by the debtor to the party seeking enforcement to the extent of the debt. If the purchase price is lower than or equal to the claim of the party seeking enforcement, the provisions of subsection 4 of § 93 of this Code apply to the set-off.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(6) With respect to the sale of an item of property by another method, the enforcement agent draws up a report in the form approved by the Minister responsible for the area. A copy of the report serves as the basis for recording the right of ownership in a register.

(7) Unless otherwise provided by law, the provisions concerning legal consequences of an auction apply, accordingly, to the legal consequences of a sale by another method.

### **§ 101<sup>1</sup>. Sale of an item of movable property of negligible value by another method**

(1) Where, according to the attachment notice, the price of an attached item of movable property does not exceed 100 euros and where it is impractical to hold an auction, the enforcement agent sells the item by another method. The agent may also arrange the sale of the item through a person whose usual business consists in the selling of items of property.

(2) The enforcement agent draws up a decision concerning sale of items of property of negligible value by another method and serves it on the debtor and on the party seeking enforcement. Among other things, the agent sets out in the decision a list of the items of property to be sold by another method, the requirements for reducing the items' price, the items' minimum selling price and the place of sale.

(3) Information concerning the sale of an item of movable property of negligible value by another method is published on the website of the Chamber at least three working days before the item is handed over for sale. The information sets out, among other things, the name of the enforcement agent, a general description of the items to be sold and the place of sale.

(4) The time limit mentioned in subsection 3 of this section does not apply if the item of property may become unfit for use.

(5) When an item of movable property of negligible value is being sold by another method, the item's price may be reduced every five working days by up to ten percent compared to the price stated in the attachment notice. If

the item is not sold, it is returned to the debtor. Items of property which cannot be returned to the debtor may be destroyed or given away for a charitable purpose.

(6) The enforcement agent records, in the enforcement file, particulars concerning the name of the item of property sold, the details of the selling price, the time of the sale and the person through whom the agent arranged the sale.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

#### **§ 102. Sale of an item of property under supervision of the enforcement agent**

(1) On an application of the debtor and with the consent of the party seeking enforcement, the enforcement agent may allow the debtor themselves to sell an attached item of property under the supervision of the enforcement agent.

(2) The enforcement agent may also allow the debtor to sell an item of property regardless of the consent of the party seeking enforcement if its auction has failed or if it may be presumed that the item cannot be sold at an auction or the proceeds estimated from the item's sale at an auction are significantly lower compared to the proceeds of a sale arranged by the debtor. If the auction failed due to the obligation to pay the purchase price not having been complied with, the agent may only allow the debtor to sell items of property without the consent of the party seeking enforcement if the repeat auction too has failed.

(3) The enforcement agent serves a notice on the party seeking enforcement concerning the debtor's request to sell an item of property by another method, except where the party's consent for such a sale is presented to the agent. The agent does not grant their consent to the debtor for the sale before seven days have passed after service of the notice on the party seeking enforcement, unless the party seeking enforcement responds to the notice earlier.

(4) The enforcement agent does not allow the debtor to sell property at a price below that stated in the attachment notice. The agent takes steps to ensure that the proceeds of the item's sale are paid into the agent's official bank account.

(5) The enforcement agent may consent to the sale of an item of property to the party seeking enforcement. In such a case, a set-off is made with the claim of the party seeking enforcement and the purchase price is deemed to be paid by the debtor to the party seeking enforcement to the extent of the debt. If the purchase price is lower than or equal to the claim of the party seeking enforcement, the provisions of subsection 4 of § 93 of this Code apply to the set-off.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(6) A sale of an item of property under supervision of the enforcement agent takes place in accordance with the rules prescribed in the Law of Obligations Act concerning the contract of sale. The agent grants their consent for the sale.

#### **§ 103. Passing of risk of accidental loss of a sold item of property and liability for the item's defects**

(1) When an item of property is sold under enforcement procedure, the risk of accidental loss of such an item passes to the purchaser at the time when the item is handed over. As of such handing over, the purchaser bears all costs and encumbrances related to, and takes all benefits deriving from, the item.

(2) When an item of property is sold under enforcement procedure, neither the enforcement agent nor the debtor is liable for any defects of the item. This does not preclude an eventual liability of the agent or debtor for unlawfully caused harm.

(3) The provisions of subsections 1 and 2 of this section do not apply when an item of property is sold by the debtor under supervision of the enforcement agent.

#### **§ 104. Extinguishment of third parties' property rights upon a sale**

(1) When a right of ownership is established regarding an item of property sold by the enforcement agent, any property rights that encumbered the item in favour of a third party are extinguished, unless otherwise provided by law. Any right of the party seeking enforcement that gave rise to the claim for whose fulfilment the item was levied on is also deemed to have been extinguished.

(2) A third party's property right in respect of the sold item is not extinguished if the holder of such a right and the purchaser so agree or if the right was created before the right which was the reason for enforcement proceedings.

(3) When an item of property is sold by the debtor under supervision of the enforcement agent, the rights of third parties regarding the item are extinguished according to the provisions of the Law of Property Act.

## **Division 3**

### **Distribution of Proceeds between Parties Seeking Enforcement**

#### **§ 105. Distribution of the proceeds of a sale of items of property**

(1) The enforcement agent distributes the proceeds of a sale of items of property between the parties seeking enforcement and other persons entitled to a share of such proceeds in the order in which their security rights were created or according to an agreement between the parties seeking enforcement. For the purposes of distribution of proceeds, security rights that were created at the same time have the same ranking.

(2) The enforcement agent transfers funds to the parties seeking enforcement and to other persons entitled to a share of the proceeds within ten working days following the funds' being credited to the agent's official bank account or, if there is a distribution plan, following approval of such a plan, but not before a mortgage which is to be recorded in the Land Register in order to secure an obligation to repay a loan granted by a credit institution for financing the purchase of an item of immovable property sold in enforcement proceedings is recorded in the Register.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

#### **§ 106. Distribution of proceeds under a distribution plan**

(1) If the proceeds are not sufficient to satisfy all claims and the parties seeking enforcement are unable to reach an agreement concerning distribution of the funds, the enforcement agent arranges the distribution of such proceeds between the parties seeking enforcement that participate in the enforcement proceedings according to a distribution plan.

(2) A distribution plan is drawn up and proceeds are distributed based on the ranking of security rights. Enforcement costs are deducted from the proceeds to be distributed under the distribution plan.

(3) If, at the time when a distribution plan is drawn up, it is unclear whether a purchaser has to pay an additional amount under § 94 of this Code, such an amount is included in the distribution plan on a conditional basis, to be distributed later, when it has been received.

(4) The enforcement agent serves the distribution plan on the parties seeking enforcement and informs them of their right to make a court claim for amending the plan, should they disagree with it.

#### **§ 107. Giving effect to a provisional and to a contingent claim**

(1) At the distribution of proceeds, a provisional claim is deemed to have become due and is subject to fulfilment.

(2) If the claim does not include interest, the enforcement agent, according to § 94 of the Law of Obligations Act, deducts, from the amount of the claim, interest for the period starting with the date when proceeds are paid out and ending with the claim's due date.

(3) Where a claim is subject to a suspensive condition, the enforcement agent deposits the relevant amount in favour of the party seeking enforcement. The amount is deposited under conditions equivalent to those of the claim. The agent disburses the deposited amount to the entitled person provided the claim becomes due.

(4) In a situation mentioned in subsection 3 of this section, the entitled person's entitlement to the deposited amount is extinguished ten years following its deposition if the person has not presented themselves within that period to receive the deposited amount.

(5) After the lapsing of the period provided for in subsection 4 of this section, the deposited amount is paid out to the person who was the owner of the item of property at the time it was sold. If the owner does not claim payment of the amount within one year after the right to claim it arose, the funds are transferred to the State budget.

#### **§ 108. Application by a person who is not a party seeking enforcement for satisfaction of their claim from the proceeds**

(1) A pledgee or another person holding a priority right in respect of an item of property may, before the distribution of proceeds, make an application to the enforcement agent in which they request fulfilment of their claim from the proceeds on a priority basis, regardless of whether or not the claim has become due. Documents serving as proof of the right have to be appended to the application.

(2) A person whose right is to be extinguished by compulsory enforcement may, before the sale of an item of property, make an application to an enforcement agent in which they apply for compensation for the extinguished right out of proceeds. Documents serving as proof of the right have to be appended to the application.



(3) The enforcement agent transmits the application of the third party to the debtor and to the parties seeking enforcement together with the documents serving as proof of the right.

(4) When distributing any proceeds and when drawing up the distribution plan, the enforcement agent takes the claim of a pledgee or of another person holding a priority right into account according to the right's ranking, provided the applicant's security right appears in a register on which members of the public may rely or provided the contract on which the pledge or other priority right is based has been authenticated by a notary.

(5) The claim of the holder of a right which is to be extinguished by compulsory enforcement is taken into account by the enforcement agent based on the earlier ranking of such a right, provided the right has been proven before the sale. If the right did not appear in a register on which members of the public may rely, the claim is fulfilled after the claims of the parties seeking enforcement. If notification of the right has not been made at a proper time, the claim arising from the right is fulfilled after all other claims.

(6) If the parties seeking enforcement and the debtor do not inform the enforcement agent before the distribution of the proceeds that they contest an application, the applicant's claim is taken into account according to its ranking when distributing such proceeds or when drawing up a distribution plan.

(7) If an applicant's claim is not taken into account when distributing the proceeds or when drawing up a distribution plan, the enforcement agent explains to the applicant that it is possible to make a court claim to seek recognition of their claim. The court claim may be made within 15 days following the time when the applicant became aware of the decision not to take their claim account.

#### **§ 109. Contestation of a distribution plan and deeming such a plan approved**

(1) Within 15 days following service of a distribution plan, the party seeking enforcement may, before the district court that serves the locality in which the office of the enforcement agent conducting the distribution proceedings is located, make a court claim contesting the distribution plan, naming as defendants the enforcement agent and any of the other parties seeking enforcement who are concerned.

(2) The court may, for the duration of proceedings on the court claim, suspend the execution of the distribution plan insofar as it has been contested.

(3) If, within 20 days following service of the distribution plan on the parties seeking enforcement, the enforcement agent has not received notification that a court claim contesting the distribution plan has been made, the plan is deemed to have been approved and the agent pays out the proceeds, having regard to the special rules provided in subsection 2 of § 105 of this Code.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(4) Where such relief is sought by the claimant, the court may amend the distribution plan or require the enforcement agent to draw up a new plan.

## **Chapter 7 LEVIES ON PECUNIARY RIGHTS**

### **Division 1 General Provisions**

#### **§ 110. Application of provisions governing levies on movable property**

Unless otherwise provided for in this Chapter, the provisions governing levies on movable property apply to levies on pecuniary rights.

#### **§ 111. Levy on a claim**

In order to levy on a claim, an enforcement agent attaches the claim and obligates a third party who owes an obligation to the debtor to perform such obligations to the enforcement agent for the benefit of the party seeking enforcement. In an attachment notice, the enforcement agent restrains the debtor from disposing of the claim, in particular from collecting the claim.

#### **§ 112. Claims that cannot be levied upon**

(1) Unless otherwise provided by law, a levy cannot be made on a claim that cannot be assigned.

(2) A claim whose assignment is precluded or restricted by an agreement between the parties may be levied upon.

(3) A claim which may not be assigned because the obligation cannot be performed to anyone else other than the existing creditor without changing the nature of the obligation may be levied upon provided the object owed can be attached.

(4) A spouse's claim for a compulsory portion of an estate may be levied on only if the claim has been recognized in an agreement or if the debtor has made a court claim to collect such a portion. The same applies to a donor's claim for the return of a gift and to a debtor's claim for compensation for non-pecuniary harm.

### **§ 113. Attachment of a contingent claim and of a future claim**

(1) A contingent claim may be attached.

(2) A future claim may be attached provided it can be sufficiently specified at the time of attachment.

### **§ 114. Attachment notice concerning a claim**

(1) An attachment notice concerning a claim must contain the following particulars:

- 1) the amount to be collected;
- 2) a general description of the claim subjected to attachment;
- 3) a reference to the enforceable title;
- 4) a direction to perform the obligation to the enforcement agent instead of the debtor.

(2) Where a future claim is attached, this has to be stated in the attachment notice concerning the claim.

(3) The enforcement agent serves the attachment notice on the third party who owes an obligation to a debtor. The agent serves the attachment notice on the debtor without delay after having served the notice on the third party.

(3<sup>1</sup>) The enforcement agent serves the attachment notice on a person who is using the Electronic Attachment System provided for in § 63<sup>1</sup> of this Act via that system.  
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(4) A claim has been attached when an attachment notice has been served on the third party who owes the obligation to a debtor.

(5) If an enforcement agent has sent an attachment notice a claim to a third party for execution, the notice is also deemed to be effective in respect of any claims which the debtor generates in the future. The attachment notice remains effective until the claim is fulfilled. When the claim has been fulfilled, the enforcement agent revokes the attachment notice without delay and notifies the revocation to the third party who owes an obligation to the debtor.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

### **§ 115. Levy on the debtor's account**

(1) A levy may be made on the debtor's account, with the exception of an account opened under the Simplified Business Income Taxation Act insofar as such an account holds amounts reserved to cover business income tax. A credit institution provides information to the enforcement agent concerning the existence or absence of such an account.

[RT I, 07.07.2017, 2 – entry into force 01.01.2018]

(2) An account is attached on the basis of the corresponding attachment notice to the extent indicated in such a notice. The money in the account – to the extent it has been attached under the attachment notice – is transferred to the enforcement agent's official bank account except where the enforceable title is other than an order of interim protection pending judicial proceedings concerning a child's claim for maintenance. If, at the time of attachment, the amount in the debtor's account falls short of that stated in the attachment notice, any amounts subsequently credited to the account are also deemed attached up to the amount of the shortfall. Any amounts credited to the account after attachment are transferred to the enforcement agent's official bank account until the attachment notice has been complied with.

[RT I 2007, 25, 130 – entry into force 01.01.2008]

(3) An attachment notice is transmitted to a credit institution electronically via the information system whose use is obligatory for enforcement agents. An account is deemed attached when the credit institution has received the corresponding electronic attachment notice. The enforcement agent transmits the attachment notice to the debtor without delay after having received information from the credit institution concerning the imposition of electronic attachment.

(4) A credit institution that does not use the Electronic Attachment System undertakes to accept attachment notices on paper or in a digitally signed form, and to arrange the execution of an attachment notice without delay. If, at the time an account is attached, it does not have the funds needed to execute the attachment, the

credit institution notifies this to the enforcement agent without delay. The enforcement agent transmits the attachment notice to the debtor without delay after having learned of a partial or full execution of the notice.

(5) Where the enforcement agent has sent an attachment notice concerning the debtor's account to a credit institution for execution, such a notice is also deemed to be effective in respect of any future accounts to be opened by the debtor. Any account that is opened is attached as of its opening unless the opening of the account is controlled electronically through the Electronic Attachment System provided for in § 63<sup>1</sup> of this Act.  
[RT I, 14.03.2011, 1 – entry into force 01.01.2012]

(5<sup>1</sup>) A credit institution may refuse to open an account for a debtor if an attachment notice received from an enforcement agent is being executed at the same credit institution regarding the debtor's account.  
[RT I, 14.03.2011, 1 – entry into force 01.01.2012]

(6) When the attachment notice has been complied with, the attachment of the person's account is revoked. When the claim is satisfied, the enforcement agent revokes, without delay, all attachment notices issued to enforce it and notifies the revocation to each credit institution to which an attachment notice was sent.  
[RT I, 14.03.2011, 1 – entry into force 01.01.2012]

(7) The form of an attachment notice and the rules and technical requirements for electronic attachment are enacted by the Minister responsible for the area.

#### **§ 116. Special rules for attaching a claim secured by a mortgage or by a real encumbrance**

(1) In order to attach a claim secured by a mortgage, in addition to effecting service of the corresponding attachment notice, an entry concerning attachment of the mortgage has to be made in the Land Register on the basis of the attachment notice. An enforcement agent sends the attachment notice and an application for the entry of a restraining note to the Land Registry Department.  
[RT I 2010, 38, 231 – entry into force 01.07.2010]

(2) Where an attachment notice is served on a third party who owes an obligation to a debtor before an entry is made concerning the attachment, the attachment operates in respect of the person as of the time of such service.

(3) Unless otherwise provided by law, the provisions of subsections 1 and 2 of this section also apply to a levy on a real encumbrance and to attaching a claim secured by a maritime mortgage or a security right recorded in the Register of Civil Aircraft.

#### **§ 117. Explanations of a third party who owes an obligation to a debtor**

(1) On an application of a party seeking enforcement, an enforcement agent imposes, on a third party who owes an obligation to the debtor, the obligation to inform the enforcement agent, within a term set by the enforcement agent, whether:

- 1) they recognize the existence of the debtor's claim and are prepared to perform the obligation;
- 2) any other persons have filed claims regarding the claim, and what the substance of such claims is;
- 3) the debtor's claim has already been attached for the benefit of other parties seeking enforcement, and what the substance of their claims is.

(2) A third party who owes an obligation to a debtor is liable for any harm that is caused to a party seeking enforcement due to the third party's failure to perform the obligation to inform the enforcement agent.

(3) An enforcement agent transmits any information they have received to the party seeking enforcement without delay.

#### **§ 117<sup>1</sup>. Obligation of a third party to provide information in relation to a cash transaction**

(1) Where, under a statute or a regulation, a person has to be identified before a monetary obligation owed to them is performed, and where performance of such an obligation is to be made in cash and its amount exceeds 5000 euros, the person subject to the duty to identify must, as a preliminary matter, establish whether they are dealing with a maintenance debtor. If this is the case, the person subject to the duty to identify refuses to perform their obligation to the maintenance debtor and, without delay, notifies an enforcement agent who is conducting proceedings on the maintenance claim of the debtor's claim against them.

(2) In a situation mentioned in subsection 1 of this section, a person subject to the duty to identify may perform their monetary obligation to a maintenance debtor, provided the enforcement agent has not attached the corresponding claim within five days of the sending of the notice.

(3) Where, regardless of the provisions of subsections 1 and 2 of this section, a person subject to the duty to identify performs a monetary obligation to a maintenance debtor in cash, the obligation that such a person owes

to the maintenance debtor is deemed not to have been performed, and the enforcement agent has a right to require, by means of an attachment notice, that the person perform the monetary obligation to the enforcement agent's official bank account for the benefit of the party seeking enforcement of a maintenance claim.

(4) The obligation provided for in this section does not apply to a credit institution within the meaning of the Credit Institutions Act.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

### **§ 118. Collecting a claim from a third party**

(1) When a claim is attached, the party seeking enforcement has a right to require that a third party who owes performance of the corresponding obligation to the debtor perform such an obligation to the enforcement agent, for the benefit of the party seeking enforcement; this also includes the right to file a court claim against the third party who owes an obligation to the debtor. Where enforcement is sought by several parties, each party may file a court claim to require performance of the attached claim for the benefit of all such parties.

(2) A debtor must provide, to a party seeking enforcement, the information necessary to collect the debtor's claim together with any documents relating to the claim. In order to obtain such information, the party seeking enforcement may apply for the debtor to be required to take an oath and, in order to obtain such documents, apply for any enforcement operations required for the reclamation of an item of movable property to be performed by an enforcement agent.

(3) A party seeking enforcement who has filed a court claim against a third party who owes an obligation to a debtor to obtain performance of the claim must, in proceedings before the court, make a motion for the debtor to be joined to the proceedings as a third party, except where the residence or seat of the debtor is outside the Republic of Estonia and the debtor does not have a representative in Estonia or where joinder would have to be effected by public notice.

(4) A debtor may require a party seeking enforcement to compensate for any harm arising from a delayed filing of a court claim or from failure to join the debtor to proceedings as a third party.

### **§ 118<sup>1</sup>. Levy on a monetary obligation performed to a third party**

(1) Where a monetary obligation that was or the total of such obligations that were performed on behalf of a debtor to a third party exceeds an amount that, by law, constitutes non-attachable earnings, an enforcement agent has a right, when enforcing a claim for maintenance, to require the third party, by an attachment notice, to reverse such performance by transferring the corresponding amount, for the benefit of the party seeking enforcement of the maintenance claim, to the official bank account of the enforcement agent.

(2) Under subsection 1 of this section, a third party may be required to reverse the performance, made towards a monetary obligation, of an amount that exceeds non-attachable earnings as provided for by law in respect of the debtor. The third party is obligated to reverse the performance of any monetary obligations that are performed to that party on behalf of the debtor following service of the attachment notice mentioned in subsection 1 of this section.

(3) When, under subsection 1 of this section, an enforcement agent attaches a monetary obligation performed to a third party, such an obligation is deemed not to have been performed to the third party.

(4) Subsection 1 of this section does not apply where an obligation is performed on behalf of a debtor by a third party who is a joint and several obligor or a provider of security for the obligation.

(5) Taxes and contributions to the mandatory funded pension, health insurance and unemployment insurance schemes are not subject to attachment under subsection 1 of this section.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

### **§ 119. Distributing the proceeds of a levy on a monetary claim**

(1) Where several enforcement agents have attached a monetary claim for the benefit of several parties seeking enforcement, a third party who owes an obligation to a debtor, including a credit institution, pays money to the enforcement agents in the order of arrival of their attachment notices. An attachment notice drawn up on the basis of a child's claim for maintenance is deemed to have arrived as the first regardless of the moment of its arrival.

[RT I 2007, 25, 130 – entry into force 01.01.2008]

(2) Where money received under a claim is not sufficient to satisfy all enforceable claims, an enforcement agent distributes it following the chronological order of the relevant attachment notices according to the rules prescribed for distributing the proceeds of a sale of movable property.

### **§ 120. Provisional attachment of a claim**

(1) A party seeking enforcement may, prior to the imposition of attachment, have an enforcement agent serve, on the basis of an enforceable title, on a debtor and on a third party who owes an obligation to the debtor a

notice to the effect that, due to the envisaged attachment, the third party who owes an obligation to the debtor does not make payments to the debtor and the debtor is not permitted to dispose of the claim, in particular collect the claim.

(2) A notice of provisional attachment served on a third party who owes an obligation to a debtor has the same legal consequences as an attachment imposed in the course of enforcement proceedings, provided attachment of the claim ensues within 30 days following service of the notice.

#### **§ 121. Other methods of levy on a claim**

(1) Where a claim that has been attached is contingent or its performance has been deferred, or if collection of the claim is complicated due to a counterclaim or for other reasons, the enforcement agent may, on an application of the party seeking enforcement or of the debtor, make a levy on such a claim by a method other than requiring a third party in respect of the debtor to perform the obligation. The agent may sell such a claim.

(2) The enforcement agent serves an application for levy by another method on the party seeking enforcement or on the debtor, except where the counterparty's consent regarding such a levy is presented to the agent. The agent does not decide on such a levy before eight days have elapsed following service of the notice on the applicant's counterparty, unless the counterparty has responded to the notice earlier.

#### **§ 122. Special rules for levying on a claim for surrender of possession or ownership of an item of movable property**

(1) Where a claim for surrender of possession or ownership of an item of movable property has been attached, the item has to be handed over to the enforcement agent.

(2) When an item of movable property is handed over to the enforcement agent, a security right arises, by virtue of attachment, in respect of the item for the benefit of the party seeking enforcement.

(3) Where a claim for the transfer of possession of an item of movable property or of a right of ownership is attached for the benefit of several parties seeking enforcement, a third party who owes an obligation to the debtor surrenders the item to the enforcement agent who was the first to serve an attachment notice on that party. If the party who owes an obligation to the debtor does not surrender the item to the agent, the party seeking enforcement has a right to make a court claim for surrender of the item.

(4) The sale of a surrendered item of property and the distribution of any proceeds from such a sale is subject to the provisions regarding the sale of attached items of property.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

#### **§ 123. Special rules for levying on a claim for surrender of possession or ownership of an item of immovable property**

(1) When a claim for surrender of possession or ownership of an item of immovable property is attached, the property is to be surrendered to the enforcement agent or to a third party designated by the agent, or to be left in the possession of the third party who owes an obligation to the debtor.

(2) When a claim for surrender of possession of an item of immovable property or of a right of ownership is attached for the benefit of several parties seeking enforcement, the third party who owes an obligation to the debtor surrenders the property to the enforcement agent or surrenders it into the possession of a third party who has been designated by the agent and who is the first to serve the attachment notice on the obligated third party.

(3) A provisional note for the benefit of the party seeking enforcement is recorded in the Land Register on the basis of a unilateral written application of the enforcement agent.

(4) A levy on an item of immovable property is made according to the rules governing such levies. If a person who owes an obligation to a debtor does not surrender such property, the party seeking enforcement has a right to make a court claim to obtain surrender of the property.

(5) The provisions of subsections 1–4 of this section also apply when a levy is made on a claim for surrender of possession or ownership of a ship registered in the Register of Ships or of an aircraft registered in the Register of Civil Aircraft.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

#### **§ 124. Levy on securities**

(1) In order to attach any securities listed in § 2 of the Securities Register Maintenance Act, the enforcement agent directs the Registrar to enter a note restraining any disposition of the rights and obligations involved. A

security is attached when it has been rendered unusable in the Register. Having received a direction to attach, the Registrar is required to arrange, without delay, the rendering of the security unusable.  
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(2) Having transmitted the direction, the enforcement agent must, without delay, serve a notice concerning the attachment of securities on the debtor.

(3) Where a security exists in the form of a paper document, the enforcement agent takes the security into their possession from the debtor.

(4) The enforcement agent sells any securities according to the provisions regarding levies on movable property. The agent has a right to register a registered security in the name of the purchaser, and to file any applications required to achieve this, in the stead of the debtor.

(5) The enforcement agent presents a bill of exchange, a cheque or a bond for payment provided this is possible under the security's terms.

(6) In order to sell any securities registered with the Registrar, the enforcement agent presents a direction to the Registrar to transfer the securities that are subject to attachment to the agent's professional securities account. Such a direction is communicated to the Registrar by post or, where the necessary technical conditions and a respective agreement are in place, electronically via a system that the enforcement agent is under an obligation to use. The Registrar executes the direction by debiting the securities account of the debtor and crediting the securities account of the agent accordingly.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(7) Any securities that are transferred to the enforcement agent's official securities account are sold by the agent according to the provisions governing levies on movable property; the securities are transferred to a purchaser by means of a transfer of securities provided for in the Securities Register Maintenance Act. The agent may also sell, on a stock exchange or in a regulated securities market, any securities that are listed on such an exchange or admitted for trading in such a market, taking account of the requirements concerning the conduct of transactions and concerning settlement that are provided in the regulations of the exchange or market.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(8) The law may provide for securities that cannot be levied upon.

#### **§ 125. Levy on a share in a private limited company**

(1) If a share of a private limited company is not registered in a register maintained by the Central Securities Depository, the share is deemed to be attached according to the rules provided for the attachment of movables. The enforcement agent informs the management board of the private limited company of the attachment.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(2) The enforcement agent sells a share of a private limited company according to the provisions governing levies on movable property.

(3) The enforcement agent who sells a share sends a notice concerning transfer of the share, in the form established by the Minister responsible for the area, to the Registrar of the Commercial Register within two days following the auction.

[RT I 2009, 51, 349 – entry into force 15.11.2009]

#### **§ 125<sup>1</sup>. Levy on a membership in a building association**

(1) A membership in a building association is deemed to be attached according to the rules prescribed for the attachment of movable property. The enforcement agent informs the management board of the building association and the Registrar of the Register of Non-Profit Associations and Foundations of the attachment.

(2) The enforcement agent sells a membership in a building association according to the provisions governing levies on movable property.

(3) The enforcement agent who sells a share sends a notice concerning transfer of the membership, in the form established by the Minister responsible for the area, to the building association and the Registrar of the Register of Non-Profit Associations and Foundations within two days following the auction.

[RT I 2009, 51, 349 – entry into force 15.11.2009]

#### **§ 126. Levy on a partner's share in partnership property**

In order to levy on a partner's share in partnership property, the party seeking enforcement must cancel the partnership contract according to the rules provided in the Law of Obligations Act. The contract having been cancelled, a levy can be made on the share belonging to the partner when partnership property is distributed.

### **§ 127. Levy on an inalienable right**

(1) Unless otherwise provided by law, a levy may be made on an inalienable right in a manner determined by the enforcement agent, provided the exercise of the right can be assigned to another person.

(2) When conducting compulsory enforcement of a right of use, the enforcement agent may order such a right's administration. In such a situation, attachment is carried out by the property in use being handed over to the administrator, unless this has already been effected by a judicial disposition.

### **§ 128. Levy on an author's pecuniary rights**

Enforcement proceedings are permitted in respect of an author's pecuniary rights provided the author has exercised such rights and a work has been published with the author's consent. Assignment of pecuniary copyright to a third party is also deemed an exercise of such a right, regardless of whether a third party has commenced to exercise the right.

### **§ 129. Levy on other pecuniary rights**

(1) Where, at the time a right is attached, there is no third party obligated to perform to the debtor or such a group of third parties cannot be determined exactly, an attachment is valid from the time of service on the debtor of an attachment notice restraining the debtor from disposing of the right, unless otherwise provided by law.

(2) A note restraining disposition of a right registered in a public register is entered in the register when such a right is subjected to a restraint.

## **Division 2**

# **Special Rules for the Attachment of Earnings**

### **§ 130. Attachment of earnings**

(1) The security right acquired when attaching a claim for the payment of remuneration for work or another similar claim for payment of earnings also extends to amounts which become due after attachment.

(1<sup>1</sup>) Earnings are deemed to consist, in particular, of a debtor's remuneration or other similar payments, of any daily allowances, non-competition fees or fees for assignment of intellectual property rights or for granting the use of such rights, of any pension or dividends, or of any goods, services, remuneration in kind or benefits that have a monetary value that the person received in connection with an employment or a service relationship, a membership in any management or oversight body of a legal person or with a long-term contractual relationship. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1<sup>2</sup>) The value of any goods, services, remuneration in kind or any benefits which have a monetary value and which the person received in connection with an employment or a service relationship, a membership in any management or oversight body of a legal person or with a long-term contractual relationship is the market price of such benefits. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1<sup>3</sup>) Where the monetary remuneration that a debtor receives during their employment or service relationship, during their membership in a management or oversight body of a legal person or on the basis of a long-term contractual relationship does not exceed the non-attachable share of earnings provided for in § 132 of this Code – if the debtor receives a benefit mentioned in subsection 1<sup>2</sup> of this section, an enforcement agent may attach any remuneration paid to the debtor in cash, deeming the value of such other benefit to constitute a part of the remuneration paid to the debtor. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1<sup>4</sup>) Before attaching, under subsection 1<sup>3</sup> of this section, a cash remuneration to an extent that leaves the debtor with an amount of such remuneration that falls below the amount of non-attachable earnings provided for in § 132 of this Code, the enforcement agent hears the debtor and the debtor's employer or other contract partner and, if necessary, the party seeking enforcement. [RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(1<sup>5</sup>) An enforcement agent has a right to require the debtor's employer and any other persons who owe an obligation to the debtor to provide information which is required for the purposes of enforcement proceedings concerning the debtor's other earnings provided for in subsection 1<sup>1</sup> of this section. A third party is obligated to provide such information unless they have a right by law to refuse its provision.

[RT I, 12.03.2015, 4 – entry into force 01.10.2015]

(2) The attachment of remuneration or of an official salary also extends to earnings which a debtor is entitled to in connection with being reassigned to another job or position or in connection with an increase in their remuneration or salary.

(3) Where a debtor commences employment with the same employer within six months following termination of their employment or service relationship, an earlier attachment notice is deemed to be valid in respect of the employer.

(4) When attaching any earnings, the attachment is not deemed to extend to any taxes or contributions to a mandatory funded pension scheme, to a health insurance scheme or to an unemployment insurance scheme.

### **§ 131. Earnings that cannot be levied upon**

(1) The following earnings may not be levied upon:

- 1) a state family allowance;
  - 2) social benefits for disabled persons;
  - 3) social benefit within the meaning of the Social Welfare Act;
  - 4) [repealed – RT I, 03.04.2018, 3 – entry into force 01.07.2018]
  - 5) unemployment allowances, grants, transport and accommodation benefits and business start-up subsidy paid through the Estonian Unemployment Insurance Fund;
  - 6) compensation paid for causing of a bodily injury or health disorder, except compensation for loss of earnings and compensation for non-pecuniary harm;
  - 6<sup>1</sup>) a work ability allowance;
- [RT I, 13.12.2014, 1 – entry into force 01.07.2016 (entry into effect changed – RT I, 17.12.2015, 1)]
- 7) statutory maintenance;
  - 8) [repealed – RT I, 26.10.2018, 1 – entry into force 01.09.2019]
  - 9) health insurance benefit within the meaning of the Health Insurance Act, except benefits for temporary incapacity for work;
  - 10) State pension to the extent provided by law;
  - 11) allowance on discharge from prison;
- [RT I, 14.03.2011, 1 – entry into force 24.03.2011]
- 12) a repressed person's allowance paid under the Persons Repressed by Occupying Powers Act.
- [RT I, 03.04.2018, 3 – entry into force 15.04.2018]

(2) If levies on a debtor's other property have not led to or presumably will not lead to complete satisfaction of the claim of a party seeking enforcement and if attachment is fair taking account of the type of the claim and the amount of the earnings, a levy may be made on the earnings mentioned in clauses 6–7 of subsection 1 of this section on an application of the party seeking enforcement. Where this is possible, the enforcement agent hears the debtor before making the corresponding decision.

[RT I, 26.10.2018, 1 – entry into force 01.09.2019]

### **§ 132. Portion of earnings that cannot be levied upon**

(1) Earnings are not attached if they do not exceed the minimum monthly salary or a corresponding proportion of earnings for a week or day.

(1<sup>1</sup>) Where making a levy on a debtor's other property has not led, or presumably will not lead, to complete satisfaction of a child's claim for maintenance, up to fifty percent of the earnings mentioned in subsection 1 of this section may be attached. Where the amount to be attached out of a debtor's earnings for the fulfilment of a child's claim for maintenance falls below one half of the amount mentioned in subsection 1 of this section, up to one third of the debtor's earnings may be attached.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(1<sup>2</sup>) Where making a levy on a debtor's other property has not led, or presumably will not lead, to complete satisfaction of the claim, attachment may be imposed on up to 20 percent of earnings which do not exceed the earnings mentioned in subsection 1 of this section less the estimated subsistence minimum published by Statistics Estonia, regardless of the number of enforcement cases that are being conducted in respect of the debtor. Earnings are not attached if they fall below the estimated subsistence minimum published by Statistics Estonia. The provisions of this section do not apply to enforcement of a child's claim for maintenance.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(1<sup>3</sup>) If a debtor has dependants, the 20 percent mentioned in subsection 1<sup>2</sup> of this section are calculated based on the debtor's earnings less the amount not subject to attachment pursuant to subsection 2 of this section per each dependant and the estimated subsistence minimum published by Statistics Estonia has been deducted.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(1<sup>4</sup>) By 1 February each year, in the edition *Ametlikud Teadaanded*, Statistics Estonia publishes the estimated amount of the subsistence minimum in euros based on the data for the previous year.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]



(2) Where, by law, a debtor maintains another person or pays maintenance to such a person, the non-attachable amount increases by one third of the minimum monthly salary per each dependant, except where compulsory enforcement is conducted in respect of a child's claim for maintenance.  
[RT I 2007, 25, 130 – entry into force 01.01.2008]

(3) Where earnings exceed the non-attachable amount, up to two thirds of an amount equivalent to five times the minimum salary, and the total of earnings exceeding that amount, may be attached, provided the amount to be attached does not exceed two thirds of the total earnings. This provision does not apply when compulsory enforcement is conducted in respect of a child's claim for maintenance.  
[RT I 2007, 25, 130 – entry into force 01.01.2008]

### **§ 133. Releasing an attachment imposed on earnings**

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) In an attachment notice, an enforcement agent states that an amount equal to the minimum monthly salary is exempt from attachment on a monthly basis and states, based on information known to them concerning the debtor's dependants, the amount to be exempted. On an application of the debtor, an enforcement agent releases the attachment, within three working days, to an extent that leaves the debtor with the exempted amount of earnings, having regard to the restrictions provided in §§ 131 and 132 of this Code.  
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1<sup>1</sup>) Where a sum of earnings covering more than one month is transferred to a debtor's account, an enforcement agent is required, on an application of the debtor, within three working days to release the attachment imposed on the account to an extent that leaves the debtor with the exempted amount of earnings for each prepaid month, having regard to the restrictions provided in §§ 131 and 132 of this Code. Where it is not possible to determine the period during which the earnings are meant to be used, an enforcement agent arranges for the debtor to be left with the exempt amount for one month.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) Until disposing of the application, an enforcement agent may suspend any transfers of funds from the attached account to parties seeking enforcement and to release the attachment imposed on the account to the extent required to provide for subsistence maintenance of the debtor or a member of the debtor's family.

### **§ 134. Changes in circumstances on which calculation of earnings is based**

(1) When circumstances based on which the portion of earnings that cannot be levied upon is calculated, the enforcement agent, on an application of the debtor or of the party seeking enforcement, amends the attachment notice accordingly.

(2) Until they are served with the amended notice, a third party who owes an obligation to the debtor may perform the obligation according to the earlier notice.

### **§ 135. Levy on concealed earnings**

(1) Where a person for whom the debtor works under an employment contract, or to whom they provide a service, is obligated to pay money to a third party or to perform, to such a party, an operation which, due to the nature of their relationship, may be construed as a full or partial payment for the work performed under the employment contract, or for the service provided, by the debtor, the claim of the third party may be attached, similarly to any claim of the debtor, on the basis of the enforceable title drawn up concerning the debtor. Attachment of the debtor's claim for payment also extends to any third-party claim against a third party who owes an obligation to the debtor. An attachment notice has to be served on the third party and on the debtor.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(3) In a situation mentioned in subsection 1 of this section, the enforcement agent attaches a claim based on the information provided by the party seeking enforcement. A third party may make a court claim for release of attachment imposed on the property or for a declaration of impermissibility, for other reasons, of compulsory enforcement in the case. The court claim is made against the party seeking enforcement.  
[RT I 2006, 7, 42 – entry into force 04.02.2006]

### **§ 136. Taking earnings into account when distributing funds between parties seeking enforcement**

(1) In a distribution plan, earnings are taken into account inclusive of any amounts which will become due in the future.

(2) Within five working days following a portion of earnings becoming due, an enforcement agent pays out, from the deposited sum, the amount due to a party seeking enforcement.  
[RT I 2006, 7, 42 – entry into force 04.02.2006]

## **Chapter 8**

# **LEVIES ON IMMOVABLE PROPERTY**

### **Division 1**

## **General Provisions**

#### **§ 137. Application of provisions governing levies on movable property**

Unless otherwise provided for in this Chapter, the provisions governing levies on movable property apply to levies on immovable property.

#### **§ 138. Application of provisions to rights deemed equivalent to an item of immovable property and to ships and aircraft**

(1) Unless otherwise provided for by law, the provisions of this Chapter also apply to enforcement proceedings regarding rights deemed equivalent to an item of immovable property and to aircraft entered in the Estonian Register of Civil Aircraft. The provisions of this Chapter apply to ships entered in the Register of Ships subject to special rules prescribed by the Law of Maritime Property Act.

(2) A levy may only be made on a share in an item of immovable property or on a right deemed equivalent to such an item if the share is a legal share of a co-owner or if the claim of the party seeking enforcement is based on a right encumbering the legal share.

#### **§ 139. Extent of a levy on immovable property**

Unless otherwise provided by law, a levy on an item of immovable property also extends to any objects that would be captured by a mortgage.

#### **§ 140. Levy on immovable property**

(1) In order to enforce a claim of the party seeking enforcement, a levy may be made on an item of immovable property, provided the debtor is recorded in the Land Register as the item's owner, or is a universal successor of an owner recorded in the Register.

(2) The party seeking enforcement must present to the enforcement agent a reference to the Land Register.  
[RT I, 21.06.2014, 8 – entry into force 01.01.2015]

(3) Where an item of immovable property has passed to a universal successor, documents proving universal succession have to be presented.

#### **§ 141. Levy on several items of immovable property**

In order to levy on several items of immovable property, single proceedings may be conducted where such an approach is taken due the fact of a single claim having been filed against a debtor or of a right encumbering several immovables or due to a claim for which the owners of the items are liable as joint and several debtors.

### **Division 2**

## **Attachment**

#### **§ 142. Attachment of immovable property**

(1) In order to attach an item of immovable property, the enforcement agent makes a list of the item and its accessories as well as of any other objects that would be captured by a mortgage, restrains the making of dispositions concerning the item, its accessories and other objects that would be captured by a mortgage, and causes a note restraining disposition of the item to be entered in the Land Register.

(2) Where attachment also captures a claim that the owner of the item of immovable property has against a third party, the enforcement agent, on an application of the party seeking enforcement, restrains the third party who owes an obligation to the debtor from satisfying such a claim.

(3) When an item of immovable property is attached, no right of security in respect of the item arises by virtue of the attachment.

#### **§ 143. Notice of attachment of an item of immovable property**

An notice of attachment of an item of immovable property sets out the following:

- 1) the enforceable title on which the enforceable claim is based;
- 2) information concerning the property in the Land Register;
- 3) accessories and essential parts of the property;
- 4) the price of the property;
- 5) the dimensions of any buildings, the number and purposes of any rooms.

#### **§ 144. Appraisal of immovable property**

(1) When appraising an item of immovable property, the enforcement agent takes into account any rights recorded in the Land Register prior to the restraining note according to the substance of the corresponding entries in the Register.

(2) When performing an appraisal, any rights appearing in the Land Register as the subject matter of a provisional note or as an objection are taken into account as rights recorded in the Land Register.

#### **§ 145. Entry of a restraining note in the Land Register**

(1) Having drawn up an attachment notice concerning an item of immovable property, the enforcement agent, without delay, sends to the Land Registry Department a copy of the enforceable title and a unilateral application for entry of a note restraining disposition of the item in the Land Register.

(2) Having entered a restraining note in the Register, the Land Registry Department sends an extract of the register part and copies of the documents that serve as a basis for the entries and that contain the particulars of the residence or seat of any persons reflected in those entries, and of their representatives, to the enforcement agent.

(3) The Land Registry Department notifies the enforcement agent of any application that has been filed with the Department before prior to reception of the application for a restraining note and transmits copies of any documents serving as a basis for the entry applied for.

(4) Where a delay caused by the service of an enforcement notice may materially jeopardize attainment of the objectives of compulsory enforcement, the enforcement agent may also attach the debtor's immovable property, or have a restraining note entered in the Register, prior to sending the enforcement notice.

#### **§ 146. Extent of attachment**

(1) Accessories of an item of immovable property cannot be attached as movable property. Other objects which would be captured by a mortgage may be attached as movable property if they have not been attached together with the item.

(2) Attachment of an item of immovable property extends to any agricultural and forestry produce generated by the item, as well as to any claims arising from having insured such produce, provided the produce is still permanently attached to the land or constitutes an accessory of the item.

(3) Attachment of an item of immovable property does not extend to lease and commercial lease claims or claims relating to the immovable arising from repeated payments, particularly claims for payment of a fee for the right of superficies or claims for payments secured by a real encumbrance.

(4) Attachment of an item of immovable property does not restrict the right of a commercial lessee to take the fruit of the immovable.

(5) When an order of compulsory administration is made in respect of an item of immovable property, attachment also extends to any property items provided for in subsections 2–4 of this section.

#### **§ 147. Provision for regular management**

(1) On attachment, an item of immovable property remains in the possession of the debtor, to be administered and used by the debtor within the scope of regular management – except where an order of compulsory administration is made in respect of the item.

(2) If it may be presumed that the debtor poses a risk to the regular management of the item of immovable property or will do so in the future, the court, on an application of the party seeking enforcement, orders a measure that is needed to eliminate such a risk. Above all, the measure may take the form of appointing a supervisor or a compulsory administrator to the item of immovable property.

(3) A supervisor monitors the performance of the debtor's obligations and informs the enforcement agent of any violation of such obligations. When a supervisor is appointed, the court sets a reasonable remuneration for them which is charged to the costs of enforcement.

(4) The rights and obligations of a compulsory administrator are governed by the provisions of this Code concerning compulsory administration.

#### **§ 148. Validity of attachment**

(1) Attachment is deemed to be valid from the time of service of the attachment notice on the debtor or from the time of entry of a restraining note in the Land Register, should this take place before the notice is served on the debtor.

(2) If attachment extends to a claim of the owner of an item of immovable property against a third party and an enforcement agent prohibits the third party from making payments to a debtor, the attachment regarding the third party is deemed to be valid as of the time when the person becomes aware of the attachment or after they are served with a document restraining them from satisfying the claim. The enforcement agent may arrange provisional attachment of the claim.

#### **§ 149. Joining with compulsory enforcement**

(1) If an application for a levy on an item of immovable property is made after the attachment of the item for the benefit of another party seeking enforcement, the enforcement agent makes a decision to permit the person who made the application to participate in the proceedings. The agent does not draw up a second attachment notice or enter a second restraining note in the Land Register.

(2) Unless otherwise provided by law, the party seeking enforcement who joined the proceedings has the same rights as the party seeking enforcement based on whose application the item of immovable property was attached.

#### **§ 149<sup>1</sup>. Special rules for attaching an apartment ownership**

(1) Where the enforcement agent attaches an apartment ownership and the party seeking enforcement is not an apartment association, the agent, once a restraining note has been entered in the Land Register, sends a notice concerning the attachment to the apartment association without delay.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(3) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(4) Within ten days after the receipt of the notice specified in subsection 1 of this section, the apartment association must submit to the enforcement agent the management plan of the association as well as documentation with the following information:

1) the amount of the claim arising from apartment ownership which has fallen due up to three months before a restraining note is entered in the Land Register, and the information which enables verification of the justification for the claim;

2) the basis for further accounting of the management costs.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

## **Division 3**

### **Sale under Enforcement Procedure**

#### **§ 150. Substantive scope of compulsory auction**

(1) The substantive scope of a compulsory auction extends the item of immovable property as well as any objects which have been attached together with such property and whose attachment remains valid during the auction.

(2) The substantive scope of the auction also extends to any accessories of the property that belong to a third party but are in the debtor's possession are also the objects of a compulsory auction, except where the third party has, by the time the auction is held, achieved release of the attachment imposed on the items in question, and has informed the enforcement agent of such release.

#### **§ 151. Separate and joint tender of items of immovable property**

(1) Items of immovable property to be sold in the course of the same enforcement proceedings are auctioned separately.

(2) Where items of immovable property are encumbered with the same right, each party to the proceedings may require such items to be auctioned together. Items may be auctioned together if, in the opinion of the enforcement agent, a joint offering will result in greater proceeds or save enforcement costs.

#### **§ 152. Exclusion of movable property from an auction of immovable property**

At the proposal of the party seeking enforcement, the enforcement agent may determine that an item of movable property is to be excluded from the auction of an item of immovable property, and is to be sold in accordance with the provisions governing levies on movable property, provided that selling the item by such a method may be presumed to result in a higher selling price or if selling the item separately is reasonable due to other considerations.

#### **§ 153. Notification of an auction**

(1) An announcement of an auction of an item of immovable property sets out, among other things:

- 1) the number of the register part of the property;
- 2) the location and size of the property;
- 3) the name of the owner of the property entered in the Land Register;
- 4) the name of the universal successor of the owner who is recorded in the Land Register, such a successor being the debtor;
- 5) any ascertained rights of third parties that encumber the property, together with their ranking and other restrictions on ownership of the property;
- 6) a call to the public to inform the enforcement agent, before the auction, of any rights not registered in the Land Register by the time of registration, in that register, of the restraining note and, at the request of the party seeking enforcement, to substantiate such rights.

(2) Unless the court determines otherwise, the period of time between, on the one hand, the publication of an auction's announcement and an auction's notice and, on the other hand, the auction, must be at least 20 days. An auction's announcement is published in the edition *Ametlikud Teadaanded* and, on the Internet, in at least one of the portals commonly used to advertise selling offers concerning immovable property. The enforcement agent may also publish an announcement in a newspaper that is circulated in the locality in which the auction is to be held. At the request of the party seeking enforcement or of the debtor and at their expense, the enforcement agent publishes the announcement also in another edition. In an announcement published on the Internet, the agent also includes photographs of the property.  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

#### **§ 153<sup>1</sup>. Special rules for an auction of apartment ownership**

(1) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) [Repealed – RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(3) Before the auction, the apartment association presents an additional certificate to the enforcement agent concerning any amounts that have accrued under any claims that arise from the apartment ownership and that have become due after the enforcement application was made or after the certificate mentioned in subsection 4 of § 149<sup>1</sup> of this Code was presented but before the auction is held.  
[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

#### **§ 154. Written bid**

(1) A person who wishes to buy an item of immovable property at an oral auction may, until the beginning of the auction, present a written bid to the enforcement agent which sets out the particulars mentioned in subsection 1 of § 86 of this Code as well as the number of the register part and the location of the property.

(2) A written bid must be presented in a sealed envelope bearing the inscription *enampakkumine*[auction] and a reference to the item being auctioned. The envelope is opened at the oral auction.  
[RT I 2009, 68, 463 – entry into force 01.01.2010]

#### **§ 155. Passing of risk of accidental loss of immovable**

The risk of loss concerning an item of immovable property and any objects sold together with such an item passes to the purchaser at an auction when the purchaser's bid is declared to be the winner. As of the moment of such declaration, the purchaser bears all costs and encumbrances and takes all benefits related to the purchase.

## **§ 156. Acquisition of immovable**

Ownership of an item of immovable property sold at an auction is created on the basis of a report on the auction by making an entry in the Land Register.

### **§ 156<sup>1</sup>. Acquiring an item of immovable property with the help of a loan**

(1) If an item of immovable property is to be acquired with the help of a loan, the purchaser notifies this to the enforcement agent according to the rules provided in § 93<sup>1</sup> of this Code.

(2) If the purchaser and the credit institution agree on encumbering the item of immovable property sold at the auction with a mortgage as security for a loan, and agree to cause an agreement on consent to be subjected to immediate compulsory enforcement to be recorded in the Land Register, the purchaser makes a corresponding notification at the same time with the notification concerning their intention to purchase the item with the help of a loan. The credit institution notifies the enforcement agent of the time when the transaction will be authenticated by a notary, and of the name and contact details of the notary.

(3) When a credit institution has issued a guarantee to an enforcement agent in a form that allows for reproduction in writing or the enforcement agent receives a copy of the deposit receipt concerning transfer of the money to a notary's bank account, the agent, without delay, unless otherwise agreed, sends the notary a digitally signed report of the auction, an application for removal, from the Register, of the restraining note and of any rights to be extinguished as a result of enforcement proceedings, as well as the agent's consent for entering the mortgage in the Land Register.

(4) The notary submits the real right contract for the creation of a mortgage, the agreement concerning the claims secured by the mortgage and concerning consent to be subjected to immediate compulsory enforcement, a registration application and the documents specified in subsection 3 of this section to the Land Registry Department.

(5) The notary transfers the sum deposited in the notary's bank account to the official bank account of the enforcement agent within three working days following registration of the documents mentioned in subsection 4 of this section in the journal of the Land Registry.

(6) If the agreements mentioned in subsection 4 of this section are not concluded within 30 days following the drawing up of the report of the auction, the notary returns, to the enforcement agent, the documents mentioned in subsection 3 of this section and, to the credit institution, the money transferred to the notary's bank account according to subsection 3 of this section.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

## **§ 157. Sale by another method**

Immovable property may be sold under the supervision of an enforcement agent according to the rules provided in § 102 of this Code.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

## **§ 158. Rights preserved**

(1) When an item of immovable property is sold under enforcement procedure, the rights reflected in the Land Register which have the same ranking as, or a higher ranking than, the claim of the party seeking enforcement or the right securing that claim are preserved.

(2) Where an item of immovable property is sold in order to enforce several claims which have different rankings, the preservation of rights is determined according to the higher-ranking claim.

(3) Rights that have a lower ranking than the claim are extinguished when the winning bid is declared. The right that is held by the party seeking enforcement, that is recorded in the Land Register and that gave rise to the claim for whose satisfaction the levy was made is also deemed to be extinguished.

(4) An auction does not extinguish the rights arising from a servitude, provided the servitude was created under a statutory right to create a servitude.

## **§ 159. Rights preserved by agreement**

(1) A right that is recorded in the Land Register and that would be extinguished upon the sale of the item of immovable property, and would be subject to removal from the Land Register, is preserved if the entitled party and the purchaser provide for such an outcome by an agreement authenticated by a notary and if they submit the agreement to the enforcement agent before the filing of an application for removal of rights from the Land Register.

(2) In a situation mentioned in subsection 1 of this section, the agreement is deemed to constitute satisfaction of the claim of the entitled party out of the item of immovable property.

(3) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

#### **§ 160. Entries in the Land Register**

(1) Unless otherwise provided by law, after the entire purchase price has been paid, the enforcement agent files with the Land Registry Department, without delay, a copy of the auction's report and the applications for the purchaser to be recorded in the Land Register as the owner and for the restraining note and any rights subject to extinguishment to be removed from the Register.

[RT I 2010, 38, 231 – entry into force 01.07.2010]

(1<sup>1</sup>) In a situation mentioned in subsections 1 and 2 of this section, the applications for registration of the owner and of a mortgage are deemed to be applications made by the purchaser and the mortgagee. The purchaser is required to pay a statutory fee in the amount provided for in the Statutory Fees Act.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(1<sup>2</sup>) In a situation mentioned in subsections 1 and 2 of this section, the application for registration of the owner is deemed to be an application made by the purchaser. The purchaser is required to pay a statutory fee in the amount provided for in the Statutory Fees Act.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

(2) The making of an entry by which a right is removed from the Land Register does not require the right holder's consent within the meaning of § 34<sup>1</sup> of the Land Register Act.

(3) If, before they are recorded in the Land Register as the owner, a purchaser applies for a right to be registered in respect of the immovable that was auctioned, or consents to the making of a corresponding entry, the entry may not be made on that basis before the purchaser has been recorded in the Land Register as the owner.

#### **§ 161. Cancellation of lease contracts and commercial lease contracts**

A purchaser may cancel a lease contract or a commercial lease contract under the terms and conditions and within the term prescribed in § 323 of the Law of Obligations Act. The purchaser may not cancel the lease contract or commercial lease contract if a note has been entered in the Land Register according to § 324 of the Law of Obligations Act and the note cannot be removed due to its ranking.

## **Division 4 Compulsory Administration of Immovable Property**

#### **§ 162. Ordering immovable to compulsory administration**

(1) After attachment, on an application of the enforcement agent, of the party seeking enforcement or of the debtor the court orders compulsory administration of an item of immovable property and appoints an administrator.

(2) Based on a claim arising from a right appearing in the Land Register, compulsory administration of an item of immovable property may also be ordered when the debtor does not appear in the Land Register as the item's owner, and is not an heir of the owner, but has possession of the item on the basis of a transaction by which it was acquired.

#### **§ 163. Appointment of administrator**

(1) Neither the party seeking enforcement nor the enforcement agent, nor any relative, by blood or marriage, of the agent may be appointed as the administrator. A relative, by blood or marriage, of the party seeking enforcement may be an administrator only with the written consent of the debtor and of the party seeking enforcement.

(2) The court has a right to replace an administrator if they do not perform their obligations.

(3) If the court does not appoint an administrator, the item of immovable property subject to compulsory administration remains in the possession of the debtor.

#### **§ 164. Entry concerning compulsory administration and giving notification of compulsory administration**

(1) On the basis of a court order, an entry is made in the Land Register concerning compulsory administration and the compulsory administrator.

(2) When the entry concerning compulsory administration has been made in the Land Register, the court serves a notice concerning the ordering of compulsory administration of the item of immovable property on the parties to enforcement proceedings and on the enforcement agent.

#### **§ 165. Possession by compulsory administrator**

(1) A compulsory administrator has a right to take possession of the item of immovable property on the basis of the order which appoints them as the property's administrator.

(2) If the debtor physically resists the compulsory administrator's taking of possession of the property, the administrator has a right to be assisted by the police in order to overcome the resistance and to take possession of the property.

(3) Where the item of immovable property is in the possession of a third party, the compulsory administrator may require possession of the property to be handed over on the basis of the enforceable title against the debtor and of the order appointing them as compulsory administrator of the property. If the property is in the possession of a commercial lessee, lessee or a usufructuary, the administrator remains the property's indirect possessor and is authorized, by the attachment notice, to collect due claims in the stead of the debtor.

#### **§ 166. Validity of attachment in the case of compulsory administration**

(1) In the case of compulsory administration, an item of immovable property is deemed to be attached as of the time when the administrator attains possession of the immovable.

(2) The administrator may make an application to the enforcement agent to restrain a third party who owes an obligation to the debtor from making any payments to the debtor.

#### **§ 167. Functions of an administrator**

(1) An administrator takes the item of immovable property on the basis of the order imposing compulsory administration of the property and is required to hand the property over with the same inventory and in the same economic condition.

(2) An administrator has a right and an obligation to perform all transactions and operations which are necessary to preserve the condition and ensure the regular management of the property. The administrator may collect any claims related to the property and sell any fruits of the property that are not required for its administration.

(3) An administrator performs any commercial lease or lease contracts concluded before attachment of the item of immovable property. The administrator may conclude new commercial lease or lease contracts for a term that runs until the end of the period of compulsory administration.

(4) If an item of immovable property remains under the administration of the debtor, the debtor must manage the immovable under the same rules as apply to the administrator. The debtor may dispose of the property only with the consent of the enforcement agent.

#### **§ 168. Supervision by enforcement agent**

(1) Having obtained the relevant views of the party seeking enforcement and of the debtor, the enforcement agent issues, to the administrator, any guidelines required for compulsory administration, and oversees the administrator's administration of the property.

(2) If necessary, the enforcement agent may require the administrator to provide a security.

#### **§ 169. Liability and reporting obligation of administrator**

(1) An administrator is liable to the parties to enforcement proceedings for performance of the administrator's obligations. The relationship between the administrator and the parties to the proceedings is governed by the provisions concerning agreements for personal services, excluding the provisions regulating the payment of remuneration and the cancellation of such agreements.

(2) An administrator is required to present reports on the administration of the item of immovable property to the enforcement agent at such times as are designated by the agent.

(3) The debtor and the party seeking enforcement have a right to acquaint themselves with the administrator's reports.

#### **§ 170. Payment of a user's fee**

(1) Any lease or rent payment or usufruct fee that falls to be paid for the use of the item of immovable property has to be paid to the administrator.



(2) Where the relevant amounts are not required for managing the item of immovable property, the court may order any lease or rent payments be made to the enforcement agent's official bank account.

#### **§ 171. Remuneration of administrator**

(1) When appointing an administrator, the court approves the administrator's remuneration, which the administrator is entitled to take from the fruits of the item of immovable property. Where the debtor is allowed to administer the property, they are not paid any remuneration.

(2) If the fruits received from the item of immovable property in the course of its administration do not cover the amount set as the administrator's remuneration, the outstanding portion is charged to enforcement costs.

#### **§ 172. Right of debtor to use attached immovable**

(1) A debtor and any member of their family who, at the time the item of immovable property is attached, resides in a dwelling located on the property, may continue to reside there during the period of compulsory administration.

(2) The debtor must compensate for any harm caused to the party seeking enforcement by use of the property.

#### **§ 173. Termination of compulsory administration**

(1) Compulsory administration is terminated by a decision of the enforcement agent after the claim of the party seeking enforcement has been satisfied.

(2) If the continuation of compulsory administration would require considerable expenditure and the party seeking enforcement does not pay the required amount in advance, the enforcement agent may apply to the court for a decision on whether to continue compulsory administration or to sell the property.

## **Division 5**

### **Distribution of Proceeds between Claimants**

#### **§ 174. Distribution of proceeds received from sale and compulsory administration of immovable property**

(1) Any proceeds received from the sale and compulsory administration of an item of immovable property are distributed by the enforcement agent, between the parties seeking enforcement and any other parties entitled to participate in the distribution of such proceeds, based on the rankings of the corresponding rights as reflected in the Land Register and in the order of attachment or according to agreement between the parties seeking enforcement. Where attachment has taken place simultaneously, the parties seeking enforcement have the same ranking for the purposes of distribution of proceeds.

(2) Enforcement costs are deducted from the proceeds to be distributed according to the distribution plan.

(3) Claims are satisfied out of the proceeds and are taken into account in the distribution plan in the following order, and, for claims of the same rank, in proportion to the amount claimed:

1) where a compulsory auction was preceded by compulsory administration, the claim of the party seeking enforcement for compensation of expenses incurred as an advance payment for maintenance of and necessary improvements to the item of immovable property, unless such expenses can be covered out of the proceeds generated by the item;

2) claims arising from rights recorded in the Land Register, according to the ranking of the right in the Register and, to the extent provided by law, any ancillary claims;

2<sup>1</sup>) [repealed – RT I, 08.07.2016, 1 – entry into force 01.01.2017];

22) a child's claims for maintenance, including any part of such a claim that has passed to the State due to the fact that maintenance support has been paid;  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

3) claims of parties seeking enforcement to protect which an item of immovable property has been attached or to protect which the claim's holder has joined in compulsory enforcement, and which are not satisfied according to clauses 1–2<sup>2</sup> of this subsection;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021];

4) any remaining claims.

(4) In relation to claims mentioned in clause 3 of subsection 3 of this section, where there are several parties seeking enforcement, preference is given to the party seeking enforcement for whose benefit the property was attached earlier or who joined compulsory enforcement.

**§ 175. [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]**

**§ 176. Rights of holders of rights to be removed from the Land Register**

(1) Where a right of a person that has been recorded in the Land Register is extinguished upon the sale of an item of immovable property, the holder of such a right may, according to the rules provided in subsection 2 of § 108 of this Code, demand compensation for removal of the right from the Register according to the right's former ranking.

(2) Compensation for a personal servitude or for a real encumbrance created for an unspecified term is paid to an entitled party in monthly instalments which are calculated based on the annual value of the right. The amount is paid for three months in advance.

(3) A claim for compensation provided for in subsection 2 of this section is reflected in the distribution plan by an amount which corresponds to the total sum of all future payments but does not exceed the product of the annual payment sum and the number 25. The plan determines how the sum is to be distributed when the party entitled to receive it dies or is wound up or if the claim falls away.  
[RT I 2006, 7, 42 – entry into force 04.02.2006]

**§ 177. Distribution plan in the case of compulsory administration**

(1) In the case of compulsory administration of an item of immovable property, an enforcement agent draws up a distribution plan for distributing the proceeds of compulsory administration between the parties seeking enforcement for the entire period of compulsory administration.

(2) The administrator makes payments under the distribution plan when the corresponding claims become due.

## **Chapter 8<sup>1</sup>**

### **LIMITATION OF DEBTORS' RIGHTS, SUSPENSION OF DEBTORS' LICENCES AND REVOCATION OF DEBTORS' DOCUMENTS**

[RT I, 19.03.2019, 1 - entry into force 01.01.2021]

**§ 177<sup>1</sup>. Warning concerning limitation of rights, suspension of licences and revocation and restraining the issue of documents**

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) When, during enforcement proceedings, a child maintenance debtor has not, within two months, made regular payments towards the child's maintenance, and the enforcement agent's attempts to collect such maintenance out of the debtor's property have not been successful, the agent – with the consent of the party seeking enforcement – warns the debtor that the debtor's rights, licences or documents listed in subsection 1 of § 177<sup>2</sup> of this Code will be, respectively, subjected to limitation, suspension or revocation and the granting of such rights, licences or documents will be restrained if, within 30 days following service of the warning, the debtor does not meet at least one of the following conditions:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

1) make a payment of at least a month's maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

2) conclude a payment schedule agreement with the party seeking enforcement concerning the payment of maintenance and pay the first instalment;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

3) provide reasons showing that the imposition of a limitation on a right, the suspension of a licence or the revocation of a document, or restraining the granting of such a right, licence or document, as described in the warning, would be unfair to them, primarily if the failure to pay the maintenance was due to a valid reason or if imposing a limitation on the right, suspending the licence or revoking the document would constitute a materially impediment to the debtor's and their dependants' subsistence.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) The warning mentioned in subsection 1 of this section remains in effect for two years following its service. If, during this period, the debtor, again, discontinues the making of regular maintenance payments without presenting a valid reason for such discontinuation, the enforcement agent, without issuing a new warning to the debtor, makes an application to the court under clause 2 or clause 3 of subsection 1 of § 177<sup>3</sup> of this Code. The agent may, during the period of effectiveness of the warning, under clause 3 of subsection 1 of this section, reassess the validity of the reason stated by the debtor and make an application to the court under clause 4 of subsection 1 of § 177<sup>3</sup> of this Code.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(3) During the period of effectiveness of a warning, an enforcement agent may make several applications to the court for limiting the debtor's rights, suspending the debtor's licences or revoking the debtor's documents, or for restraining the granting of such rights, licences or documents.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(4) The enforcement agent does not issue the warning mentioned in subsection 1 of this section if the debtor has previously presented what clearly constitutes a valid reason for failure to pay the maintenance.  
[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(5) Before issuing to the debtor a warning mentioned in subsection 1 of this section, the enforcement agent ascertains whether the debtor holds any rights, licences or documents mentioned in subsection 1 of § 177<sup>2</sup> of this Code. If the debtor does not have any such rights, licences or documents, the agent does not issue the warning.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(5<sup>1</sup>) The effectiveness of the warning lapses when a judicial disposition enters into effect by which the court, by virtue of clause 3 of subsection 2 of § 177<sup>4</sup> of this Code, has denied the enforcement agent's application for limiting the debtor's rights, suspending the debtor's licences, revoking the debtor's documents, or restraining the granting of such rights, licences or documents, or by which the court, by virtue of § 177<sup>5</sup> of this Code, has terminated the limitation imposed on the debtor's rights, the suspension of the debtor's licences or a restraint imposed on the granting of such rights, licences or documents to the debtor.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(6) The form of a warning concerning limitation of the debtor's rights, suspension of the debtor's licences or revocation of the debtor's documents is enacted by a regulation of the Minister responsible for the area.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

**§ 177<sup>2</sup>. Limitation of a debtor's rights, suspension of a debtor's licences and revocation of a debtor's documents, as well as restraining the granting of such rights, licences or documents where payments that were owed have not been made**

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) If, during enforcement proceedings, a child maintenance debtor has not, within three months, made regular payments towards the child's maintenance, and the enforcement agent's attempts to collect such maintenance out of the debtor's property have not been successful, the court – with the consent of the party seeking enforcement and on an application of the enforcement agent which has been preceded by warning the debtor – may, by order, indefinitely suspend the following rights and licences:

- 1) a right to engage in hunting;
- 2) a right to drive a motor vehicle;
- 3) a weapons permit and an acquisition permit for a weapon;
- 4) a right to drive recreational craft and personal watercraft;
- 5) a fishing card.

(1<sup>1</sup>) In situations mentioned in subsection 1 of this section, a court may, by order, revoke the following documents of the debtor, and restrain the issue of such documents for up to two years:

- 1) an Estonian citizen's passport;
- 2) an alien's passport;
- 3) a refugee's travel document;
- 4) a temporary travel document;
- 5) a seafarer's discharge book;
- 6) a certificate of record of service on an Estonian ship;
- 7) a diplomatic passport.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) When, under this section, a court limits a debtor's right, suspends a debtor's licence or orders both of the aforementioned measures, or revokes a debtor's document, it also restrains, by the same order, the granting of such a right, licence or document, or of all of the foregoing.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) A court may, at the same time, limit several of the rights, suspend several of the licences and revoke several of the documents mentioned in subsection 1 of this section, and restrain the granting of such rights, licences or documents. When limiting a right, suspending a licence or revoking a document, and when restraining the granting of such a right, licence or document, the court has regard to the provisions of subsection 2 of § 177<sup>4</sup> of this Code.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

**§ 177<sup>3</sup>. Application of an enforcement agent for limiting a debtor's right, suspending a debtor's licence or revoking a debtor's document and for restraining the granting of such a right, licence or document**

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) An enforcement agent makes an application to the court for limiting a debtor's right, suspending a debtor's licence or revoking a debtor's document – and for restraining the granting of such a right, licence or document – mentioned in § 177<sup>2</sup> of this Code if:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 1) the debtor has not, within 30 days following service of a corresponding warning, met at least one of the conditions mentioned in subsection 1 of § 177<sup>1</sup> of this Code;
- 2) the debtor has, after having been served with a warning, commenced fulfilling the maintenance claim but has discontinued such fulfilment without a valid reason for at least 30 days;
- 3) the debtor has, after having been served with a warning, concluded a payment schedule agreement with the party seeking enforcement, but has not performed it as required;
- 4) the enforcement agent is not satisfied as to the existence of the valid reason presented by the debtor under clause 3 of subsection 1 of § 177<sup>1</sup> of this Code or is not satisfied that the reason is a sufficiently valid one.

(2) The enforcement agent appends the following to the application mentioned in subsection 1 of this section:

- 1) the enforcement application;
- 2) information concerning service of the enforcement notice;
- 3) an overview of payments received during enforcement proceedings;
- 4) information concerning the debtor's rights with whose limitation, licences with whose suspension and documents with whose revocation, or of the right, licences and documents to whose granting being restrained the party seeking enforcement consents;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 5) particulars concerning service of the warning issued under subsection 1 of § 177<sup>1</sup> of this Code;
- 6) the debtor's reasons for failing to pay the maintenance and concerning their need for the right to be subjected to limitation, the licence to be suspended, the document to be revoked, or the right, licence or document whose granting is to be restrained;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 7) information on which of the rights, licences or documents mentioned in subsection 1 of § 177<sup>2</sup> of this Code the debtor holds;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 8) other relevant information.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

**§ 177<sup>4</sup>. Consideration of an application for limitation of rights, suspension of licences and revocation of documents as well as for restraining the granting of such rights, licences or documents, and the filing of interim appeals**

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) An enforcement agent's application for limiting a debtor's rights, suspending a debtor's licences and revoking a debtor's documents, as well as for restraining the granting of such rights, licences or documents, is considered by the court under the rules for actions by petition.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(2) The court does not suspend a debtor's rights, withdraw a debtor's licences, revoke a debtor's documents, or restrain the granting of such rights, licences or documents to the debtor if, after the enforcement agent has made the application mentioned in subsection 1 of § 177<sup>3</sup> of this Code, the debtor:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

- 1) has commenced fulfilling the maintenance claim and has paid at least two months' maintenance;
- [RT I, 12.03.2015, 4 – entry into force 01.03.2016]
- 2) has concluded a payment schedule agreement for the payment of maintenance with the party seeking enforcement, and has paid at least a month's maintenance;
- [RT I, 12.03.2015, 4 – entry into force 01.03.2016]
- 3) has provided reasons showing that the limitation of rights, withdrawal of licences and revocation of documents would be unfair in their respect, primarily if the failure to pay the maintenance was due to a valid reason, or if such a limitation, withdrawal or revocation, or the restraining of the granting of such rights, licences or documents would constitute a material impediment to the debtor's and his or her dependants' subsistence.
- [RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) A court order concerning limitation of the debtor's rights, suspension of the debtor's licences, revocation of the debtor's documents or imposition of a restraint on the granting of such rights, licences or documents is served by the court on the debtor and on the enforcement agent.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(4) The court serves the order bearing a note concerning its entry into effect on the relevant authority for the performance of operations required to limit the right, suspend the licence, revoke the document or restrain the granting of such a right, licence or document, as stated in the order.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(5) The court order contains an explanation, for the debtor, concerning the operations that they have to perform due to the limitation of their right, the suspension of their licence or the revocation of their document, and concerning the time limits for such operations.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(6) The parties to the proceedings may file an interim appeal against an order of the district court concerning limitation of the debtor's right, suspension of the debtor's licence, revocation of the debtor's document or imposition of a restraint on the granting of such a right, licence or document within the time limits and according to the rules provided in the Code of Civil Procedure. An interim appeal may be filed against the order of the circuit court of appeal concerning interim appeal from the district court.  
[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

### **§ 177<sup>5</sup>. Termination of the limitation of rights and suspension of licences, and of the restraint imposed on the granting of such rights or licences, and documents**

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(1) On an application of the debtor, the court, by order, terminates the limitation of the debtor's right, the suspension of the debtor's licence and the restraint imposed on the granting of such a right or licence, or document, if:

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

1) the debtor has paid at least three months' maintenance;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

2) the debtor has concluded a payment schedule agreement with the party seeking enforcement, and has performed it during at least three consecutive months;

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

3) it would be unfair in respect of the debtor to decide not to terminate such a limitation or suspension, or such a restraint;

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

4) the obligation to pay maintenance has ended.

[RT I, 12.03.2015, 4 – entry into force 01.03.2016]

(2) An order which terminates the limitation of the debtor's right, the suspension of the debtor's licence and the restraint on the granting of such a right or licence is served by the court on the applicant and on the enforcement agent.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

(3) The court serves the order bearing a note concerning its entry into effect on the relevant authority for the performance of operations related to termination of the limitation of the right, of the suspension of the licence and of the restraint on the granting of such a right or licence, or document, as stated in the order.

[RT I, 19.03.2019, 1 – entry into force 01.01.2021]

## **Part 3**

# **ENFORCEMENT PROCEEDINGS CONCERNING THE HANDING OVER OF A PERSON OR SURRENDER OF AN ITEM OF PROPERTY AND FOR PERFORMANCE OF, OR REFRAINING FROM, A CERTAIN OPERATION**

### **§ 178. Reclamation of an item of movable property**

(1) If, under an enforceable title, a debtor is required to surrender a specific item of movable property or a specific amount of fungible property or securities that have the form of documents, the enforcement agent takes these from the debtor and hands them over to the party seeking enforcement.

(2) If an item of property is not found, the debtor must inform the enforcement agent of the item's location.

(3) If the debtor does not provide information concerning the item's location, the provisions of § 183 of this Code are applied.

## **§ 179. Return of a child or allowing for communication with a child**

(1) In a case concerning the return of a child or allowing for communication with a child, an enforcement agent performs an enforcement operation in the presence of a representative of the local authority in whose administrative territory the child's – or, as an exception, the obligated person's – residence is located, who possesses specialist knowledge of communication with children.

(2) If the obligated person obstructs compulsory enforcement, the provisions of § 183 of this Code may be applied in their respect.

(3) If necessary, the enforcement agent may raise, with the local authority in whose administrative territory the child's – or, as an exception, the obligated person's – residence is located, the matter of the child's temporary placement in a children's social welfare institution.

(4) An enforcement agent may use force in respect of the child or the person obligated to return the child or allow for communication with the child only on the basis of a judicial disposition. The court allows the use of force to enforce the disposition only if the application of other measures has been or is likely to be ineffective or if prompt enforcement of the disposition is required and the use of force is justified by the need to ensure the child's well-being, which cannot be achieved in any other way.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

## **§ 180. Surrendering an item of immovable property**

(1) If the debtor must surrender, hand over or vacate an item of immovable property, including an apartment ownership or a part of such ownership, or a residential or other room, the enforcement agent sets a time limit of up to three months for the debtor to comply with the enforceable title on a voluntary basis.

(2) The enforcement agent serves the debtor with an enforcement notice concerning surrender of the item of immovable property not less than 14 days before the envisaged compulsory enforcement. Among other things, the enforcement notice states the following:

- 1) the time limit for voluntary compliance with the enforceable title;
- 2) the fact that the enforcement agent has a right to seize the property by coercive means or to remove the debtor and any persons present with the debtor by such means;
- 3) the date on which the property is to be vacated by coercive means;
- 4) the obligations of the debtor to surrender the immovable, to arrange for a room for their property, to inform the agent of the location of such a room and, if circumstances preventing eviction are revealed, to notify these to the agent.

(3) If the debtor does not comply with the enforceable title on a voluntary basis within the time that has been set, the enforcement agent takes possession of the item of immovable property from the debtor and hands it over to the party seeking enforcement. Any objects or persons on the premises are subject to removal. If necessary, the agent engages the police to achieve surrender of the immovable.

(4) The enforcement agent separates any items of movable property which do not constitute the subject matter of compulsory enforcement and hands these over to the debtor or arranges for such items to be at the debtor's disposal or, in the debtor's absence, hands the items over to the debtor's representative or to a full-age member of the debtor's family. If none of the aforementioned persons is present, the agent places the items in a facility for storing attached objects, to be stored at the expense of the debtor, or arranges for their storage at another location. The agent does not arrange storage for property items whose sale is not practical due to their low value, except for objects which are exempt from attachment. Such items are removed from the premises.

(5) If the debtor does not reclaim the items of property mentioned in subsection 4 of this section within two months following vacation of the rooms, or claims return of such items without paying the costs, the enforcement agent sells the items and deposits the proceeds. Any items not sold are destroyed.

(6) The enforcement agent draws up a report on the taking of possession of the item of immovable property; the report is signed by the enforcement agent and the persons present at the taking of possession.

## **§ 181. Surrender of an item of property in the possession of a third party**

(1) If the item of property whose surrender is being claimed is in the direct possession of a third party and such a party refuses to surrender the item, the right to claim surrender of the item is attached on an application of the party seeking enforcement.

(2) If it is patently obvious that the item of property whose surrender is being claimed has been passed into the direct possession of a third party in order to avoid surrendering it, the enforcement agent has a right to take possession of the item from the third party.

### **§ 182. Enforcement proceedings for performance of an operation which can be performed by third party**

(1) If the debtor fails to comply with an obligation to perform an operation which can be performed by a third party, the enforcement agent may authorize the party seeking enforcement to have the operation performed at the expense of the debtor.

(2) On the basis of the enforceable title requiring performance of the operation and on an application of the party seeking enforcement, a levy may be made on the debtor's property to cover the costs incurred. Such a levy may also be made if the third party requests an advance payment in order to perform the operation.

(3) The provisions of subsections 1 and 2 of this section do not apply to enforcement proceedings whose object is achieving the surrender of property.

### **§ 183. Enforcement proceedings for performance of an operation which can be performed only by the debtor**

Where an operation can be performed only by the debtor but the debtor does not perform the operation by the set due date, or where the debtor violates the obligation to permit a certain operation or refrain from one, the enforcement agent may impose a non-compliance levy on the debtor in accordance with the rules provided in § 26<sup>1</sup> of this Code.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

### **§ 184. Enforcement of a judgment which requires the debtor to provide a binding expression of intent**

(1) If a debtor has been ordered by a judgment to provide a binding expression of intent, the judgment serves as a substitute for such an expression. If the binding expression of intent depends on the performance of an obligation by the party seeking enforcement, the expression is deemed to be provided when the party seeking enforcement or the enforcement agent has offered performance of the obligation to the debtor according to this Code.

(2) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(3) [Repealed – RT I 2006, 7, 42 – entry into force 04.02.2006]

(4) Where property is acquired in a situation provided for in subsection 1 of this section, the legal consequences of such acquisition are the same as in the case of acquisition on transaction basis.

[RT I 2006, 7, 42 – entry into force 04.02.2006]

### **§ 185. Handing over an item of property under a judicial disposition which requires transfer of ownership**

If a debtor is required to transfer ownership or create a right in an item of movable property, such an item is deemed to have been handed over when the enforcement agent takes possession of the item for the purpose of handing it over to the party seeking enforcement. The item is deemed to have been handed over on a transaction basis.

### **§ 186. Right of the party seeking enforcement to demand compensation**

(1) Where a judicial disposition prescribes monetary compensation for violating an obligation but the defendant does not comply with the disposition, in enforcement proceedings the party seeking enforcement may only demand the payment of monetary compensation.

(2) The provisions of this Part do not preclude or restrict the right of the party seeking enforcement to demand that the debtor compensate for harm caused by failure to comply with the enforceable title.

## **Part 4 CLAWBACK OF A DEBTOR'S PROPERTY**

### **§ 187. Clawback of a debtor's property under enforcement procedure**

(1) A party seeking enforcement may make a court claim against a debtor and the debtor's counterparty and demand that the court set aside, on the grounds and in accordance with the rules provided in this Part, any transaction that harms the interests of the parties seeking enforcement (hereinafter, 'clawback'). For the purposes of this Part, disposing of an object in enforcement proceedings is also deemed to be a transaction.

(2) A party seeking enforcement may demand a clawback if they have an enforceable title, their claim has become due and a levy on the debtor's property has not resulted in full satisfaction of the party's claim or there is reason to presume that making such a levy will not lead to the claim being satisfied.

#### **§ 188. General grounds for clawback of transactions**

(1) A court sets aside a transaction which has been concluded by a debtor within three years that precede a party seeking enforcement making a court claim for setting such a transaction aside if the debtor concluded the transaction knowingly to harm the interests of the party seeking enforcement, provided the counterparty knew or should have known this at the time of concluding the transaction.

(2) Where a counterparty is a person connected with the debtor or the transaction was concluded six months before the commencement of enforcement proceedings or before attachment of the debtor's property, it is presumed that the counterparty knew or should have known that the transaction harms the interests of another creditor.

(3) A person's connection with the debtor is ascertained according to § 117 of the Bankruptcy Act.

#### **§ 189. Clawback of a gift agreement**

(1) A court sets aside any gift agreement concluded by a debtor, except where the agreement was concluded earlier than two years before the court claim to set the transaction aside was made.

(2) A court may, on the grounds provided in subsection 1 of this section, also set aside a contract of sale, a barter agreement or any other contract, if a disparity in the obligations of the parties makes it evident that the nature of the contract that was concluded was, even if only in part, that of a gift.

(3) Benefits and customary gifts that were commensurate to the financial situation of the debtor are not subject to clawback.

#### **§ 190. Clawback of division of community property**

A court sets aside a marital property agreement between a debtor and their spouse or an agreement on division of the spouses' community property by which the debtor renounces, to a material extent, their property or their share in the community property, if the marital property agreement or the agreement on division of community property was entered into:

- 1) after the commencement of enforcement proceedings;
- 2) within one year before the commencement of enforcement proceedings;
- 3) before commencement of the time limit mentioned in clause 1 of this section but within two years before the commencement of enforcement proceedings unless the debtor or his or her spouse proves that the debtor was solvent at the time of dividing the property or of renouncing it and did not become insolvent due to such division or renouncement.

#### **§ 191. Clawback of the granting of security**

(1) A court sets aside the granting of security if the security was granted:

- 1) after commencement of enforcement proceedings;
- 2) in order to secure an obligation which had arisen within six months before the commencement of enforcement proceedings if the debtor was not required to grant such security at the time when the obligation arose or if the debtor was insolvent at the time of granting the security and the person in whose favour the security was granted was or should have been aware of the insolvency;
- 3) within two years before the commencement of enforcement proceedings if the security was granted in favour of a person connected with the debtor unless the person or the debtor proves that the debtor was solvent at the time of granting the security.

(2) The granting of security is not subject to clawback if the security was granted in order to secure a loan or any other credit agreement and after granting the security the debtor came into possession of the amount of money corresponding to the value of the security according to the secured contract, except in a situation mentioned in clause 3 of subsection 1 of this section.

(3) A person connected with a debtor is presumed to be aware of the debtor's insolvency.

#### **§ 192. An heir's operations-at-law**

If, out of their estate, the heir has fulfilled a claim for a compulsory portion, a legacy or a testamentary obligation, the party seeking enforcement who has a claim in respect of the estate and whose claim, in the event of bankruptcy proceedings regarding the estate, would rank higher than or equal to the claim of the recipient of such performance may require, in the same manner as regarding a gift agreement concluded by the heir, that such an operation be set aside.



### **§ 193. Calculation of time limits**

If, already before obtaining an enforceable title or before their claim becomes due, the party seeking enforcement has, in writing, informed a person who concluded a transaction with a debtor of the intention to make a court claim to set the transaction aside, the time limits are calculated as of the time of reception of the notice, provided the debtor was already at that time unable to satisfy the party's claim and provided a court claim for clawback is made within one year following that time.

### **§ 194. Clawback in respect of legal successors**

A court claim for clawback may be made, according to the rules established in § 116 of the Bankruptcy Act, also against a legal successor of the person who concluded a transaction with the debtor.

### **§ 195. Legal consequences of a clawback of property**

(1) Where a court sets aside a transaction under the rules governing clawback, the counterparty is required to surrender what they received under the transaction, together with any fruits and other gains, to the enforcement agent conducting enforcement proceedings, to be disposed of by the agent for the benefit of the party seeking enforcement. The enforcement agent organizes the distribution of what has been surrendered between the parties seeking enforcement according to the order in which the parties' claims have been filed.

(2) The legal consequences of clawback are subject to the provisions of subsections 2–4 of § 119 of the Bankruptcy Act.

(3) A counterparty may demand that a debtor return what they received under the transaction or, if such a return is impossible, that they make compensation for the value of what was received, to be provided within six months following the entry into effect of the judgment ordering return of the property received from the counterparty or, if the counterparty surrendered the property subject to clawback to the party seeking enforcement without a judgment, following the date of such surrender.

### **§ 196. Conditional setting aside of a transaction**

Where a party seeking enforcement only has, against a debtor, a judicial disposition declared enforceable without delay or a judicial disposition that contains a reservation, in a decision by which it sets a transaction aside a court makes the permissibility of enforcement proceedings subject to the entry into effect of the decision against the debtor or to cessation of the reservation contained in such a decision.

### **§ 197. Commencement of bankruptcy proceedings**

(1) When a debtor is declared insolvent, the right to conduct proceedings regarding a claim made by the insolvent debtor's creditor to set aside a transaction passes to a trustee in bankruptcy. In such a situation, the only defendant is considered to be the counterparty of the transaction.

(2) If proceedings regarding a dispute concerning the setting aside of a transaction are still pending before the court at the time the debtor is declared insolvent, such proceedings are suspended. On an application of a trustee in bankruptcy, the proceedings may be continued.

(3) A trustee in bankruptcy may amend the court claim.

(4) If a trustee in bankruptcy does not wish to continue the proceedings, they may be continued regarding the cost of the case on an application of a principal party. If a trustee in bankruptcy does not wish to continue proceedings, this does not deprive them of the right to make a court claim for clawback under the Bankruptcy Act.

## **Part 5**

# **SPECIAL RULES FOR ENFORCEMENT OF DECISIONS, JUDGMENTS AND ORDERS IN MISDEMEANOUR AND CRIMINAL CASES**

## **Chapter 9**

# **ENFORCEMENT OF DECISIONS, JUDGMENTS AND ORDERS IN MISDEMEANOUR AND CRIMINAL CASES**

## **Division 1 General Provisions**

### **§ 198. Order of levying**

(1) A debtor's property is levied upon in the following order:

- 1) a levy on money, valuables, securities and claims;
- 2) a levy on the remainder of movable property;
- 3) a levy on immovable property.

(2) Having regard to the order of levying provided for in subsection 1 of this section, the debtor's share in joint property is levied upon last.

## **Division 2 Enforcing a Fine Imposed as a Sanction for a Misdemeanour**

### **§ 199. Rules for collecting a fine**

(1) Enforcement proceedings for the collection of a fine imposed as a sanction for a misdemeanour are conducted on the basis of a decision of an out-of-court proceedings authority or of a judgment, which has entered into effect and which has been transmitted to an enforcement agent for enforcement.

(2) A fine imposed as a sanction for a misdemeanour is charged to the national budget. An enforcement agent notifies this to the representative of the party seeking enforcement.

(3) Where the out-of-court proceedings authority that imposed a fine is the executive of a rural municipality or of a city, the fine imposed as a sanction for a misdemeanour is charged to the budget of the local authority that made the decision.

(4) Where the out-of-court proceedings authority that imposed a fine is a legal person in private law that has concluded an administrative contract with the executive of a rural municipality or a city, the fine imposed as a sanction for a misdemeanour is charged to the budget of the local authority that concluded the administrative contract with the person.

### **§ 200. Time limit for paying a fine**

(1) If a court or an out-of-court proceedings authority has not allowed a fine to be paid in instalments, the full amount of the fine is to be paid. An enforcement agent sets a time limit, which is not shorter than 10 days or longer than 30 days, for a debtor to pay the full amount of the fine. The debtor presents a payment document to the enforcement agent concerning payment of the fine.

(2) If an out-of-court proceedings authority or a court has allowed a fine to be paid in instalments under subsections 2 and 3 of § 66 of the Penal Code, the fine is to be paid in instalments and within the time limit prescribed by the decision or judgment.

(3) If a fine is not paid within the designated time limit or the time limit for paying an instalment of the fine is not complied with and such a time limit has not been extended, the enforcement agent makes a levy on the debtor's property according to the rules provided in this Code.

### **§ 201. Converting a fine into a short-term custodial sentence**

(1) If the full amount of a fine has not been paid by the designated due date or if the due date for the payment of an instalment of a fine is not complied with and the time limit for paying the fine has not been extended and the debtor has no property on which to make a levy, the enforcement agent notifies the party seeking enforcement, when one year has elapsed after the agent opened proceedings on the fine, but not later than three years after the entry into effect of the decision in the misdemeanour case, of the impossibility of enforcement. Where no circumstances are present that would preclude conversion of the sanction, the party seeking enforcement sends an application, to the district court that authorized enforcement of the judgment, for the fine to be converted into a short-term custodial sentence according to § 72 of the Penal Code. The party seeking enforcement notifies the debtor and the enforcement agent of having filed the application.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1<sup>1</sup>) Where the time limit for paying a fine has been extended and the debtor does not comply with the time limit prescribed in the decision extending the time limit in question, and the debtor has no property to levy

upon, an enforcement agent, when two months have elapsed from the due date for paying the fine as stated in the decision extending the time limit for payment but not later than three months after the entry into effect of the decision made concerning the misdemeanour, notifies the party seeking enforcement of the impossibility of enforcement. The party seeking enforcement files an application with the court for the fine to be converted into a short-term custodial sentence, and notifies this to the enforcement agent and to the debtor according to the rules provided in subsection 1 of this section.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) An application mentioned in subsection 1 of this section sets out the amount of the fine that has been paid.

(3) If a debtor pays a fine in full before they are ordered to serve a short-term custodial sentence in lieu of the fine, an enforcement agent terminates the proceedings to collect such a fine and notifies the district court without delay of the fine having been paid.

(4) An enforcement agent terminates enforcement proceedings that have been commenced to collect a fine on the basis of a court order imposing a short-term custodial sentence.

#### **§ 202. Expiration of the limitation period for enforcing a judgment or a decision of an out-of-court proceedings authority – termination of enforcement proceedings that have been commenced to collect the fine in question**

(1) Where a fine imposed in a misdemeanour case by judgment or by decision of an out-of-court proceedings authority has not been collected within the time limit provided for in § 82 of the Penal Code, the enforcement agent, on account of expiration of the limitation period for enforcement, terminates enforcement proceedings that have been commenced to collect such a fine.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) [Repealed – RT I 2009, 68, 463 – entry into force 01.01.2010]

#### **§ 203. Termination of enforcement proceedings that have been commenced to collect a fine when a natural person debtor dies or a legal person debtor is wound up**

When a natural person dies or a legal person is wound up, the property of the natural person's heir or the legal person's successor is not levied upon, and enforcement proceedings are terminated.

### **Division 3**

## **Enforcement of a Monetary Penalty and a Forfeiture of Property Imposed for a Criminal Offence**

#### **§ 204. Rules for collecting a monetary penalty or forfeiture of property**

(1) Enforcement proceedings to collect a monetary penalty or forfeiture of property imposed in a criminal case are conducted on the basis of a judgment that has entered into effect and that has been transmitted to an enforcement agent for enforcement.

(2) The amount of a monetary penalty or forfeiture of property is charged to the national budget.

#### **§ 205. Time limit for paying a monetary penalty or forfeiture of property**

(1) Where the court has not ordered a monetary penalty to be paid in instalments, such a penalty or forfeiture of property is paid as a lump sum. For paying the penalty or forfeiture, an enforcement agent sets the debtor a time limit which is not shorter than 60 days or longer than 90 days. The debtor presents to the enforcement agent a payment document concerning payment of the amount of monetary penalty or forfeiture of property.

(2) If the court has, under subsection 1 of § 66 of the Penal Code, ordered payment of an amount of monetary penalty in instalments or, under § 424 of the Code of Criminal Procedure, extended the time limit for paying the amount of a monetary penalty or forfeiture of property, such an amount is paid in instalments and within the time limit as prescribed by the judgment or order.

#### **§ 206. Consequences of failure to pay a monetary penalty or a forfeiture of property**

(1) Where a debtor has not paid an amount imposed as a monetary penalty or forfeiture of property or a part of monetary penalty within the set time limit, an enforcement agent explain to the debtor his or he right to request that a court extend enforcement of the monetary penalty or forfeiture of property according to § 424 of the Code of Criminal Procedure. The enforcement agent informs the debtor of the consequences of failing to pay the amount imposed as a monetary penalty or forfeiture of property.

(2) If the amount imposed as a monetary penalty or forfeiture of property is not paid by the due date or the time limit for the payment of an instalment of the amount of such a penalty is not complied with and the time limit for paying the amount of the penalty or forfeiture has not been extended and the debtor has no property on which a levy could be made, the enforcement agent, when three years have elapsed from acceptance for enforcement of the penalty or forfeiture but not later than seven years after the entry into effect of the judgment, notifies the party seeking enforcement of the impossibility of enforcing the judgment. If there are no circumstances to preclude conversion of the sanction, the party seeking enforcement transmits an application, to the district court that authorized enforcement of the judgment, for the monetary penalty or forfeiture of property to be converted to imprisonment according to §§ 70 and 71 of the Penal Code. The party seeking enforcement notifies the debtor and the enforcement agent of having filed the application.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) If a debtor pays the amount of a monetary penalty or forfeiture of property in full before a converted sentence is imposed, the enforcement agent terminates the proceedings that have been commenced to collect such amounts and notifies the district court without delay, in writing, of the amount of the monetary penalty or forfeiture of property having been paid.

(4) Where a court has made an order imposing a converted sentence, the enforcement agent, on the basis of such an order, terminates enforcement proceedings for the collection of the corresponding monetary penalty or forfeiture of property.

#### **§ 207. Expiration of the limitation period for enforcing a monetary penalty or forfeiture of property – termination of enforcement proceedings that have been commenced to collect such a penalty or forfeiture**

(1) Where a monetary penalty or forfeiture of property has not been collected within the time limit provided in § 82 of the Penal Code, the enforcement proceedings that have been commenced to collect such a penalty or forfeiture are terminated by the enforcement agent on account of expiration of the limitation period for enforcement.

[RT I, 14.03.2011, 1 – entry into force 24.03.2011]

(2) [Repealed – RT I, 14.03.2011, 1 – entry into force 24.03.2011]

#### **§ 208. Death of a natural person debtor – termination of enforcement proceedings that have been commenced to collect a monetary penalty or forfeiture of property from such a debtor; winding up of a legal person – termination of enforcement proceedings that have been commenced to collect a monetary penalty from such a person**

When a natural person debtor dies or a legal person debtor is wound up, no levy is made on the property of the natural person's heir or the legal person's successor, and enforcement proceedings are terminated.

## **Division 4**

### **Enforcement of Other Enforceable Monetary Claims Resulting from Misdemeanour and Criminal Proceedings**

#### **§ 209. Enforcement of costs of misdemeanour proceedings and of other enforceable monetary public-law claims arising in a misdemeanour case**

Enforcement of the costs of misdemeanour proceedings, or of other enforceable monetary public-law claims, which have been awarded by a judgment or court order or by a decision or order of an out-of-court proceedings authority, is subject to subsections 2–4 of § 199, subsection 1 of § 200 and §§ 202 and 203 of this Code.

#### **§ 210. Rules for enforcement of costs of criminal proceedings and of other enforceable monetary public-law claims**

Enforcement of the costs of criminal proceedings and of other enforceable monetary public-law claims which have been awarded in a criminal case by a judgment or court order is subject to the provisions of subsection 2 of § 204, subsection 1 of § 205 and §§ 207 and 208 of this Code.

#### **§ 211. Enacting the rules for reception of enforceable monetary public-law claims arising in a criminal or administrative or misdemeanour case**

The Minister responsible for the area enacts the rules for reception, into State budget, of a monetary penalty or forfeiture of property, of the costs of criminal proceedings and of other enforceable monetary public-law claims arising in a criminal case, the rules for reception, into State budget, of a fine, case costs and of other enforceable monetary public-law claims awarded by a judgment or court order in administrative court proceedings and the rules for reception, into State budget, of a fine or cautionary fine, case costs and other enforceable monetary public-law claims arising in a misdemeanour case.

## **Part 6**

## **SERVICE OF A BINDING EXPRESSION OF INTENT THROUGH AN ENFORCEMENT AGENT**

### **§ 212. Service of a binding expression of intent**

A person may relay a binding expression of intent or a document to another person through an enforcement agent by presenting a corresponding application and documents to the enforcement agent.

### **§ 213. Application of the Code of Civil Procedure**

Unless otherwise provided by law, the service of binding expressions of intent through an enforcement agent is subject to the provisions of the Code of Civil Procedure concerning service of procedural documents. An enforcement agent may use any method of serving a document that is permitted for a court.

### **§ 214. Serving a binding expression of intent by public notice**

Service of a binding expression of intent by public notice may be arranged on the basis of a court order if it is clearly not possible to transmit such an expression of intent by any other method or if the expression of intent has to be communicated to the public or to an unknown person.

### **§ 215. Enforcement agent's fee**

An enforcement agent's fee for transmitting a binding expression of intent is provided for in the Enforcement Agents Act.

### **§ 216. Documenting the service**

(1) With respect to the service of a document, an enforcement agent draws up a service report in the form enacted by the Minister responsible for the area. An original copy of the report is issued to the sender of the document to serve as proof of the document's transmission.

(2) A service notice and a service report set out, among other things, the name of the person based on whose application the document was served.

## **Part 7 COMPLAINTS, APPEALS AND COURT CLAIMS IN ENFORCEMENT PROCEEDINGS**

### **§ 217. Appealing a decision and complaining of an action of the enforcement agent**

(1) Unless otherwise provided by law, a party to enforcement proceedings may file with the enforcement agent, within ten days following the day on which the party becomes or should have become aware of a decision to be appealed or of an action to be complained of, an appeal about the agent's decision or a complaint concerning the agent's action in relation to enforcing an enforceable title or refusing to perform an enforcement operation.

(2) The enforcement agent can reinstate the time limit mentioned in subsection 1 of this section in accordance with the rules provided in the Code of Civil Procedure. An appeal may be filed, with the district court serving the locality in which the agent's office is located, against a decision to refuse reinstatement of a time limit. The order of the court of first instance concerning the appeal is not subject to further appeal.

(3) A complaint concerning an action of the enforcement agent is considered by the agent in the presence of the parties to the proceedings within 15 days, and a decision is made within 10 days following consideration.

(3<sup>1</sup>) The enforcement agent may extend the time limit for making a decision concerning a complaint by ten days if the case is legally complex or if the making of the decision is fraught with complications due to other objective reasons.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(4) The enforcement agent informs the parties to the proceedings of the time of consideration of the complaint at least three working days before such consideration. A party's non-appearance at consideration does not preclude the consideration.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(5) The enforcement agent makes a decision, which includes a statement of the reasons for the decision, concerning the complaint and serves it on the parties to the proceedings.

(6) If a party to the proceedings does not file their complaint within the time limit mentioned in subsection 1 of this section, the party loses the right to subsequently rely on facts which the party could have presented in the complaint.

(7) If, by judgment or court order, a court requires the enforcement agent to consider a complaint anew and to make a decision concerning it, the agent disposes of the complaint following the time limits provided in subsection 3 of this section. The time limit for disposing of the complaint starts to run from the time of learning of the entry into effect of the judgment or order.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

#### **§ 218. Appeal against a decision of the enforcement agent concerning a complaint**

(1) A party to the proceedings may file an appeal to the district court that serves the locality in which the enforcement agent's office is located against a decision of the agent concerning a complaint within ten days following being served with such a decision. An appeal against a decision or a complaint concerning an action of the enforcement agent cannot be filed with the court without having first filed it with the agent.

(2) The court, under the rules governing civil actions by petition, considers an appeal against a decision of the enforcement agent within 15 days following the filing of the appeal. The court may, pending disposition of the appeal, decide to suspend enforcement proceedings subject to the provision of security or without a security, or to continue such proceedings subject to the provision of security.

(3) The parties to the proceedings and the enforcement agent may file an interim appeal against an order of the district court made regarding a decision of the agent. An interim appeal may be filed against the order of the circuit court of appeal concerning interim appeal from the district court. An interim appeal may not be filed if the monetary claim that is being enforced in the enforcement proceedings is less than 2000 euros or if the monthly amount of a claim for periodic payments is less than 150 euros and the circuit court of appeal has decided not to vary the operative part of the district court's order, except where the claim that is being enforced is a child's claim for maintenance. The order of a circuit court of appeal made concerning an interim appeal against a decision concerning imposition of a non-compliance levy is not subject to further appeal to the Supreme Court.

[RT I, 19.03.2019, 2 – entry into force 29.03.2019]

#### **§ 219. Filing an interim appeal against an order of a judge in enforcement proceedings**

Unless otherwise provided by law, an interim appeal may be filed against an order of a judge in enforcement proceedings.

#### **§ 220. Contestation, by a person not named in an enforceable title, of the acceptance of the title for enforcement**

(1) A debtor may, by making a court claim against the party seeking enforcement, contest the acceptance of an enforceable title for enforcement in a situation provided for in § 18 of this Code and also where enforcement proceedings have been commenced against a person not named in the enforceable title.

(2) The limitation period for making such a court claim is ten days following service, on the debtor, of the enforcement notice.

#### **§ 221. Court claim for declaring compulsory enforcement to be impermissible**

(1) A debtor may make a court claim against the party seeking enforcement to obtain a declaration that compulsory enforcement of the enforceable title is impermissible, primarily for the reason that the claim has been satisfied, its performance has been deferred, or it has been set off. The granting of the court claim does not affect the validity or legal force of the enforceable title.

(1<sup>1</sup>) Where the enforceable title that has been presented for compulsory enforcement is other than a judicial disposition, particularly where it is a title mentioned in clauses 18–19<sup>1</sup> of subsection 1 of § 2 of this Code, the debtor can also submit, in the court claim seeking a declaration that compulsory enforcement of the title is impermissible, any objections to the existence and validity of the claim arising from such a title.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(2) The objections mentioned in subsection 1 of this section are admissible in the case of a judicial disposition only if the grounds on which they are based arose after the entry into effect of the disposition.

(3) The court claim may be made until the end of enforcement proceedings.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(4) If the court claim is granted, the party seeking enforcement bears the costs of enforcement.

**§ 222. Court claim by a third party for release of attachment imposed on property or for a declaration that compulsory enforcement is impermissible for other reasons**

(1) A third party who has, with respect to the subject matter of compulsory enforcement, a right that precludes such enforcement, especially the right of ownership or a limited real right, may make a court claim, in the court in whose service area the compulsory enforcement is conducted, for release of attachment imposed on property or for a declaration that compulsory enforcement is impermissible for other reasons.

(2) A third party may also make a court claim mentioned in subsection 1 of this section when, in enforcement proceedings, a restraint on disposition that is mentioned in § 88 of the General Part of the Civil Code Act and that has been imposed in favour of such a party is violated.

(3) The court claim is made against the party seeking enforcement and the debtor.

(4) If the court claim is granted, an enforcement agent releases the attachment imposed on the property in question and files an application with the relevant register to remove the restraining note.

(5) If, by the time an auction is held, the holder of the right which precludes an auction of the attached property has not presented to the enforcement agent an arrangement or a judicial disposition for releasing the attachment imposed on the property or for suspending or terminating enforcement proceedings, and the property is sold at the auction, such a third party loses their right to the property in question and is only entitled to the proceeds of the auction.

**§ 223. Court claim for declaring an auction void**

(1) If property is sold to a person who did not have a right to purchase it or if an auction was held based on an attachment that was void or other material conditions of the auction were violated, a party to enforcement proceedings may make a court claim, within 30 days following service of the auction report, for declaring the auction void.

(2) When an auction is declared void:

- 1) the debtor may require the purchaser, under § 80 of the Law of Property Act, that the purchaser surrender the item of property that was sold or, if this is impossible, file a claim on the basis of the provisions governing unjust enrichment;
- 2) the party seeking enforcement may require the enforcement proceedings to be continued;
- 3) the purchaser may require the party seeking enforcement to refund the purchase price and the enforcement agent to refund the costs of enforcement, including the enforcement agent's fee;
- 4) a party to the proceedings may require that the enforcement agent compensate for harm according to the Enforcement Agents Act.

**§ 223<sup>1</sup>. Petition for termination of enforcement proceedings on account of expiry of the limitation period for enforcing the claim**

(1) The debtor may file a petition with the court for termination of enforcement proceedings on account of expiry of the limitation period for enforcing the claim when the period provided for in § 157 of the General Part of the Civil Code Act has elapsed since the claim inherent in a judicial disposition that has entered into effect – or in another enforceable title – was first presented for enforcement. The court considers the debtor's petition under the rules for actions by petition.

(2) When a petition mentioned in subsection 1 of this section is considered by the court, the parties to proceedings are the petitioner and the party seeking enforcement.

(3) The court may, based on the petition, apply interim protection of a right.

(4) The petitioner or the party seeking enforcement may file an appeal against an order by which the court disposes of the petition for termination of enforcement proceedings on account of expiry of the limitation period for enforcing the claim.

(5) The petition may be filed with the court until the end of enforcement proceedings.

(6) The granting of the petition does not exempt the debtor from bearing enforcement costs.  
[RT I, 22.03.2021, 1 – entry into force 01.04.2021]

## **Part 8**

## **IMPLEMENTING PROVISION**

### **§ 224. Entry into force and implementation of this Code**

This Code enters into force at the time and according to the rules provided in the Act to Implement the Code of Civil Procedure and the Code of Enforcement Procedure.