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Law of Succession Act

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19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers substituted on the basis of subsection 107 ³ (4) of the Government of the Republic Act.
16.02.2016	RT I, 10.03.2016, 2	20.03.2016

Chapter 1 GENERAL PROVISIONS

§ 1. Succession and bequeather

- (1) Succession is the transfer of the property of a person upon his or her death to another person.
- (2) A bequeather is a person whose property transfers upon his or her death to another person.

§ 2. Estate

An estate is the property of a bequeather. An estate does not include the rights and obligations of the bequeather which pursuant to law or by their nature are inseparably bound to the person of the bequeather.

§ 3. Opening of succession

- (1) A succession opens upon the death of a person.
- (2) The time of opening of a succession is the date of death of the bequeather.
- (3) The place of opening of a succession is the last residence of the bequeather.

§ 4. Transfer of estate to successor

- (1) Upon the opening of a succession, the estate transfers to a successor.
- (2) A successor may renounce a succession pursuant to the procedure provided for in this Act.

§ 5. Succession capacity

- (1) Succession capacity is the capacity of a person to succeed.
- (2) Any person with passive legal capacity has succession capacity.
- (3) A natural person who is alive at the time of death of the bequeather or a legal person who exists at that time may be a successor.
- (4) A child born alive after the opening of a succession shall be deemed to have succession capacity at the time of opening of the succession if the child was conceived before the opening of the succession.
- (5) A foundation established by a will or succession contract shall be deemed to exist at the time of opening of the succession if it acquires the rights of a legal person later.

§ 6. Unworthiness to succeed

- (1) A person is unworthy to succeed if the person:
 - 1) intentionally and unlawfully causes or tries to cause the death of the bequeather;
 - 2) intentionally and unlawfully places the bequeather in a situation where he or she is incapable of making or revoking a testamentary disposition until his or her death;
 - 3) by duress or deceit hinders the bequeather from making or altering a testamentary disposition or in the same manner induces the bequeather to make or revoke a testamentary disposition if it is no longer possible for the bequeather to express his or her actual testamentary intention;
 - 4) intentionally and unlawfully removes or destroys a will or succession contract if it is no longer possible for the bequeather to renew it.
 - 5) falsifies the will made by the bequeather or the succession contract or a part thereof.
- (2) The parent of a child who has been fully deprived of the right of custody by a court cannot be an intestate successor of the child.
[RT I, 29.06.2014, 3 - entry into force 09.07.2014]
- (3) The provisions of this section also apply to legatees and other persons who have the right to receive benefit from the succession.

§ 7. Consequences of unworthiness to succeed

If a successor is unworthy to succeed, the person who would have succeeded if the unworthy person had died before the opening of the succession is entitled to succeed.

§ 8. Action for declaration of unworthiness to succeed

- (1) In the case of a dispute, a court may declare a person unworthy to succeed at the request of an interested person.
- (2) The limitation period of a claim specified in subsection (1) of this section is six months after becoming aware of the reasons for unworthiness to succeed, but not longer than ten years from the date of opening of the succession.
- (3) The request specified in subsection (1) of this section may be made after the opening of a succession. The request specified in subsection (1) may be made with respect to a subsequent successor as soon as an estate transfers to a provisional successor.

§ 9. Bases for succession

- (1) The basis for succession is law (intestate succession), the testamentary intention of the bequeather expressed in a will (testate succession) or a succession contract (succession by succession contract).
- (2) The right of succession by succession contract is preferred to the right of succession by will, but both of these are preferred to the right of succession by law.

Chapter 2

INTESTATE SUCCESSION

§ 10. Application of intestate succession

- (1) Succession is intestate if the bequeather has not left a valid will or succession contract.
- (2) If the will or succession contract of a bequeather only concerns a share of the estate, the remaining share is succeeded to in intestacy.

§ 11. Intestate successors

- (1) Intestate successors are the bequeather's spouse and the relatives specified in this Act.
- (2) The intestate successor is a local government or the state on the basis provided for in § 18 of this Act.

§ 12. Relatives as intestate successors

- (1) Relatives succeed in three orders.
- (2) Second order successors succeed if there are no first order successors.
- (3) Third order successors succeed if there are no first or second order successors.
- (4) The provisions concerning intestate succession by relatives are subject to the right of a bequeather's surviving spouse to the estate provided for in § 16 of this Act.

§ 13. First order intestate successors

- (1) First order intestate successors are the descendants of a bequeather.
- (2) If at the time of death of a bequeather a descendant of the bequeather is alive, the descendants of that relative who are related to the bequeather through him or her shall not succeed.
- (3) A descendant who dies before the bequeather is replaced by the descendants who are related to the bequeather through the deceased descendant.
- (4) If a bequeather and successor die on the same day and it is not possible to determine which of them died earlier, they shall be deemed to have died at the same time. In such case, they do not succeed after one another and the provisions of subsection (3) of this section apply.
- (5) Children of a bequeather succeed in equal shares. Children replacing a deceased parent succeed in equal shares to the share of the estate to which their deceased parent would have had the right.

§ 14. Second order intestate successors

- (1) Second order intestate successors are the parents of the bequeather and their descendants.
- (2) If at the time of opening of a succession both parents of the bequeather are alive, they succeed to the entire estate in equal shares.
- (3) If at the time of opening of a succession the father or mother of the bequeather is not alive, the descendants of the deceased parent replace him or her according to the provisions concerning first order successors.
- (4) If the deceased parent has no descendants, the other parent of the bequeather succeeds to the entire estate. If the other parent is also deceased, his or her descendants succeed according to the provisions concerning first order successors.

§ 15. Third order intestate successors

- (1) Third order intestate successors are the grandparents of the bequeather and their descendants.
- (2) If at the time of opening of a succession all the grandparents are alive, they succeed to the entire estate in equal shares.
- (3) If by the time of opening of a succession a paternal or maternal grandparent is deceased, his or her descendants replace him or her. If he or she has no descendants, the other grandparent on the same side succeeds to his or her share. If the other grandparent is also deceased, his or her descendants succeed.
- (4) If by the time of opening of a succession both paternal or maternal grandparents are deceased and they have no descendants, the grandparents on the other side or their descendants succeed.
- (5) Upon replacement of parents by their descendants, the provisions concerning first order successors apply.

§ 16. Spouse as intestate successor

- (1) Together with the relatives of a bequeather, the bequeather's surviving spouse succeeds in intestacy:

- 1) with first order successors, equally with the share of a child of the bequeather but not to less than one-quarter of the estate;
- 2) with second order successors, to one-half of the estate.

(2) If there are no relatives from the first or second orders, the bequeather's spouse succeeds to the entire estate.

(3) In addition to his or her share of the estate, the bequeather's spouse may request establishment of real right provided for in § 227 of the Law of Property Act on an immovable which was the matrimonial home of the spouses provided that the standard of life of the bequeather's spouse would deteriorate due to succession.

(4) The surviving spouse does not have a right of succession or right to preferential share if the bequeather has, before his or her death, filed a claim with a court for divorce or agreed to divorce in writing or if the bequeather was entitled, at the time of his or her death, to claim annulment of the marriage and has filed the corresponding claim with a court.

§ 17. Right of spouse to preferential share

(1) If a bequeather's surviving spouse succeeds together with second order successors of the bequeather, he or she receives in addition to a share of the estate the standard furnishings of the spouses' matrimonial home as a preferential share if the objects are not accessories of an immovable.

(2) The provisions concerning a legacy apply to the preferential share.

§ 18. Right of intestate succession of local government and state

(1) The local government of the place of opening of a succession is the intestate successor if there are no successors specified in subsection 11 (1) of this Act.

(2) If a succession is opened in a foreign state and Estonian law applies to the succession, the Republic of Estonia is the intestate successor if there are no successors specified in subsection 11 (1) of this Act.

Chapter 3 TESTATE SUCCESSION

Division 1 Will

§ 19. Definition of will

(1) A will is a unilateral transaction whereby a bequeather (hereinafter *testator*) makes a disposition of his or her estate in the event of his or her death.

(2) A testator shall make a will himself or herself.

§ 20. Classification of wills

(1) A will may be notarial or domestic.

(2) A notarial will may be a notarially authenticated will or a will deposited with a notary.

(3) A domestic will may be a will signed in the presence of witnesses or a holographic will.

§ 21. Notarially authenticated will

(1) A notary shall authenticate a will which he or she has prepared according to the testamentary disposition of the testator or which a testator has submitted to him or her for authentication.

(2) A testator shall sign his or her will in the presence of a notary.

§ 22. Will deposited with notary

(1) A testator may make a notarial will by depositing with a notary his or her testamentary disposition in a sealed envelope and confirming to the notary that it is his or her will. The notary shall prepare a notarial instrument concerning the deposit of the will, which shall be signed by the testator and the notary.

(2) A testator may retrieve his or her will deposited with a notary at any time. The notary shall prepare a notarial instrument concerning the retrieval of the will, which shall be signed by the testator and the notary.

§ 23. Will signed in presence of witnesses

(1) A testator may make a domestic will, which he or she shall sign in the presence of at least two witnesses with active legal capacity and in which the testator shall indicate the date and year of making the will. The witnesses shall be present at the signing of the will concurrently.

(2) The testator shall notify the witnesses that they have been invited to witness the making of a will and that the will contains the testator's testamentary intention. The witnesses are not required to know the content of the will.

(3) Immediately after the testator has signed his or her will, the witnesses shall sign it. The witnesses confirm by their signature that the testator signed the will himself or herself and that according to their understanding the testator has active legal capacity and capacity to exercise will.

(4) A person for whose own benefit or for the benefit of whose ascendant or descendant, brother or sister or their descendant, spouse or spouse's ascendant or descendant a will is made shall not be a witness.

(5) If the prohibition provided for in subsection (4) of this section is violated in the making of a will, only the dispositions in the will which are made in violation of the prohibition are void.

§ 24. Holographic will

(1) A testator may make a domestic will by writing it from beginning to end in his or her own handwriting and indicating the date and year of making the will. The testator shall sign his or her holographic will.

(2) If a holographic will is submitted to a notary and the notary prepares a notarial instrument concerning thereof pursuant to the Notarisation Act, the holographic will is valid as a notarially authenticated will.

(3) If witnesses also sign a holographic will, it is valid as a holographic will and the provisions of subsections 23 (4) and (5) of this Act do not apply thereto.

§ 25. Term of validity of domestic will

(1) A domestic will becomes invalid if six months have elapsed from the date of its making and the testator is alive at the time.

(2) If a domestic will does not indicate the date and year of its making and it is not possible to establish the date of making the will in any other manner, the will is void.

§ 26. Safe-keeping of domestic will

(1) A testator may keep a domestic will himself or herself or give it to another person for safe-keeping.

(2) Upon becoming aware of the death of a testator, a person with whom the testator has deposited his or her will or who possesses the will on another basis is required to submit the will promptly to a notary. The notary shall issue a document to the person who submitted the domestic will concerning the deposit of the will, which shall be signed by the person who submitted the will and the notary.

(3) If the person specified in subsection (2) of this section wrongfully removes or conceals the will, a person who has an interest in the estate has the right to demand compensation from the offender for the share of the estate which the person failed to receive from the other successors.

§ 27. Testation age

A will may be made in a notarially authenticated form by a minor of at least 15 years of age. A minor does not require the consent of his or her legal representative for making a will.

Division 2 Content of Will

Subdivision 1

General Provisions

§ 28. Interpretation of will

The interpretation of a will shall be based on the actual intention of the testator.

§ 29. Specification of persons and things in will

(1) In the specification of persons and things in a will, a specification or description which leaves no doubt as to the intention of the testator is sufficient.

(2) If there is no doubt as to the intention of the testator, the validity of a will is not affected by an error in a specification or description of things or persons or that a characteristic or trait of a person or thing specified in the will is later lost.

§ 30. Will for the benefit of a particular group of persons

If a testator makes a disposition in a will for the benefit of a particular group of persons without specifying the persons exactly, it is presumed that the disposition is made for the benefit of all those who belong to the group of persons specified in the will at the time of opening of the succession, unless otherwise provided by the will.

§ 31. Will for benefit of descendant who dies after making of will

If a testator makes a disposition in a will for the benefit of a descendant who dies after the making of the will but before the opening of the succession, leaving descendants, it is presumed that the disposition is made also for the benefit of the descendants to the extent of the share of the estate which they would receive by intestate succession upon replacing the deceased descendant, unless otherwise provided by the will.

§ 32. Prerequisites for invalidity of will made for benefit of spouse

(1) A will or a part thereof made by the bequeather for the benefit of his or her spouse is void, if:

- 1) the marriage has been terminated before the death of the bequeather;
- 2) the bequeather has filed a claim with a court for divorce or agreed to divorce in writing before his or her death;
- 3) at the time of his or her death the bequeather is entitled to claim annulment of the marriage and has filed the corresponding claim with a court.

(2) A will is not void if it can be presumed that the bequeather would have made it also in the case specified in subsection (1) of this section.

§ 33. Disposition to use estate for charity

If a testator makes a disposition in a will to use the estate or a share thereof for charity without specifying the disposition, it is presumed that the disposition is made for the benefit of the local government of the last residence of the testator with the obligation to use the estate or the share thereof for charity.

§ 34. Description of person in will

If a testator makes a disposition in a will for the benefit of a person whom he or she describes in a manner which applies to several persons and it is unclear who is meant, it is presumed that the disposition is made for the benefit of all the persons in equal shares.

§ 35. Conditional disposition

(1) A testator may nominate a successor or give a legacy with a suspensive condition or specified term in a will.

(2) A testator may also make other dispositions with a suspensive or resolute condition or with a specified term in a will.

§ 36. Condition on successor receiving legacy

(1) If a successor is nominated with a condition (§ 35 (1)) and a legacy is also given to the successor in a will, the condition is also valid with respect to the legacy unless otherwise provided by the will.

(2) If a legacy is given to a successor with a condition (§ 35 (1)), the legatee's capacity as a successor is not dependent on the condition unless otherwise provided by the will.

§ 37. Disposition with suspensive condition

If a testator makes a disposition with a suspensive condition in a will, the disposition is valid only if the person for whose benefit the disposition is made is alive upon fulfilment of the condition unless otherwise provided by the will.

§ 38. Supplementary disposition

If a testator expresses in a will an intention to make supplementary dispositions in the future but has not made them, the will is valid unless the testator makes the validity of the will dependent on these dispositions.

Subdivision 2 Testate Successor

§ 39. Nomination of successor

(1) A testate successor is a person to whom a testator bequeaths by a will all his or her property or a legal share (fraction) thereof.

(2) If a will concerns a share of an estate, the residual share of the estate is succeeded to in intestacy unless a succession contract is entered into concerning that share.

(3) If a testator nominates his or her successors in a will, but the shares of the estate left to them total less than the entire estate, everyone's share of the estate shall be increased in proportion to the size of the share specified in the will.

(4) If the shares of an estate left to the successors nominated in a will total more than the entire estate, everyone's share of the estate shall be decreased in proportion to the size of his or her share specified in the will.

§ 40. Nomination of successors without specification of shares of estate

(1) If the shares of an estate of the successors nominated in a will are unspecified, their shares of the estate shall be deemed to be equal.

(2) If several successors are nominated in a will some of whose shares of the estate are specified, those successors whose shares are unspecified succeed in equal shares to the part of the estate not included in shares of the estate.

(3) If the shares of the estate specified in subsection (2) of this section together form the whole or exceed it, all shares of the estate are decreased in proportion so that the successors whose shares are not specified receive as large a share of the estate as the successor who receives the smallest share.

(4) If relatives are nominated in a will as successors without specifying their identities and shares of the estate, the succession is effected pursuant to the same procedure as intestate succession.

§ 41. Successors of one share of estate

If from among successors some are nominated as recipients of one and the same share of an estate, the provisions concerning an estate as a whole apply to this joint share of the estate.

Subdivision 3 Alternative Successor

§ 42. Nomination of alternative successor

(1) A testator may nominate one or several alternative successors in place of a successor if a person nominated as a successor dies before the opening of the succession, renounces the succession or is unworthy to succeed.

(2) If it is not evident from a will in which of the cases specified in subsection (1) of this section an alternative successor is nominated, the alternative successor shall be deemed to be nominated in all the cases.

(3) In nominating alternative successors, a testator may specify in which order the alternative successors become successors.

§ 43. Alternative successor becoming successor

- (1) An alternative successor becomes a successor if the condition on which the alternative successor was nominated (§ 42) is fulfilled.
- (2) Second and subsequent alternative successors do not lose the right to succeed if the alternative successor preceding them dies before the successor or the alternative successor preceding in order.

§ 44. Subsequent successor as alternative successor

- (1) A subsequent successor shall also be deemed to be an alternative successor unless otherwise provided by the will.
- (2) If it is not evident from a will whether a person is nominated as an alternative successor or a subsequent successor, the person shall be deemed to be an alternative successor.

Subdivision 4 Subsequent Successor

§ 45. Nomination of subsequent successor

- (1) A testator may provide in a will that in the case of arrival of a particular date or fulfilment of a suspensive condition the entire estate or a share thereof transfers from a successor to a subsequent successor. A successor for whom a subsequent successor is nominated is a provisional successor.
- (2) A subsequent successor shall not be designated for a subsequent successor.
- (3) If a subsequent successor is nominated with a suspensive condition and the suspensive condition is not fulfilled within twenty years after the opening of the succession, the nomination of a subsequent successor becomes invalid.
- (4) If a testator provides that a person nominated as a successor receives the estate on a particular date or upon fulfilment of a suspensive condition, but has not nominated a provisional successor, the intestate successors of the testator are the provisional successors.
- (5) If a testator nominates a natural person who is conceived and born after the opening of the succession or a legal person which is established after the opening of the succession as a successor, the person shall be deemed to be a subsequent successor unless otherwise provided by the will.

§ 46. Nomination of subsequent successor without specification of date or condition

- (1) If a testator nominates a subsequent successor without specifying a due date or suspensive condition, the subsequent successor shall succeed upon the death of the provisional successor.
- (2) If a person who is not born by the time of opening of a succession is nominated as a subsequent successor, he or she shall become a subsequent successor upon birth. If a legal person not yet established by the time of opening of a succession is nominated as a subsequent successor, the legal person shall become a subsequent successor upon establishment.

§ 47. Death of subsequent successor

If a subsequent successor dies after the opening of the succession but before the date of the subsequent succession, his or her right of succession transfers to his or her successors unless otherwise provided by the will.

§ 48. Right of disposal of provisional successor

- (1) A provisional successor may dispose of the objects forming part of an estate unless otherwise provided by this Act.
- (2) A disposition of an object forming part of an estate without charge or a disposition of an immovable or real right forming part of an estate made by a provisional successor shall be void upon fulfilment of the condition on subsequent succession or on the due date if the disposition precludes or restricts the rights of the subsequent successor.
- (3) A disposition of an object forming part of an estate made in the course of compulsory execution or by a trustee in bankruptcy shall be void upon fulfilment of the condition on subsequent succession or on the due date. A disposition is valid if upon fulfilment of the condition on subsequent succession a creditor may demand performance of an obligation out of the estate also from a subsequent successor.

§ 49. Reimbursement of expenses to provisional successor

(1) A provisional successor shall incur the expenses necessary for the preservation and ordinary maintenance of the estate.

(2) A provisional successor may demand reimbursement of expenses other than those made with respect to the estate specified in subsection (1) of this section from a subsequent successor pursuant to the provisions concerning unjustified enrichment.

(3) A provisional successor has the right to remove from the estate the things created by means of the expenses made by him or her provided that the provisional successor restores the previous condition of the estate. Such right is precluded if the provisional successor does not benefit from the removal or he or she is reimbursed at least for the value the things created by means of the expenses would have for him or her after their removal.

§ 50. Inventory of estate

(1) At the request of a subsequent successor, a provisional successor shall provide the subsequent successor with an inventory of the estate which is signed by the provisional successor.

(2) A subsequent successor may demand that the subsequent successor be invited to the preparation of an inventory of the estate.

(3) The expenditure for preparation of the inventory of an estate shall be reimbursed from the estate.

§ 51. Guarantee of rights of subsequent successor

(1) If due to the activity or financial situation of a provisional successor a subsequent successor has good reason to suspect that the subsequent successor's rights may be materially violated, the subsequent successor may demand that the provisional successor guarantee the subsequent successor's rights.

(2) If the provisional successor does not guarantee the rights of the subsequent successor within a reasonable term, the subsequent successor may apply for appointment of an administrator of estate specified in § 112 of this Act for the protection of the rights of the subsequent successor until the date or fulfilment of a condition of the subsequent succession.

(3) If the provisional successor provides sufficient security, the provisional successor may demand termination of the administration of the estate.

§ 52. Estate to be transferred to subsequent successor

(1) If the right of succession transfers to a subsequent successor, the provisional successor is required to transfer the estate. The estate shall be transferred in the condition it would be if it had been prudently managed until the transfer.

(2) Property which a provisional successor acquires on the basis of rights belonging to the estate or out of the estate or as compensation for the destruction of, damage to or seizure of objects included in the estate forms part of the estate to be transferred to a subsequent successor.

(3) Benefit received from an estate until creation of the right of subsequent succession belongs to the provisional successor.

(4) At the request of a subsequent successor, the provisional successor shall present a report on the administration of the estate to the subsequent successor.

§ 53. Liability of provisional successor for decrease in value of estate

(1) A provisional successor is not liable to a subsequent successor for a decrease in the value of the estate if the provisional successor has managed the estate prudently. A provisional successor is also not liable to a subsequent successor, if the provisional successor has consumed the estate within the limits of regular use according to his or her circumstances.

(2) A provisional successor shall exercise such care upon the administration of an estate as he or she would exercise in his or her own affairs.

§ 54. Exemption of provisional successor from restrictions and obligations

If a testator has provided in a will that only that which remains of the estate by the time the right of subsequent succession arises transfers to a subsequent successor, or if the will provides the right of a provisional successor

to dispose of the estate freely, the provisional successor shall be deemed to be exempt from the restrictions and obligations provided by law.

§ 55. Legal relations upon subsequent succession

(1) After the right of subsequent succession arises, a provisional successor is no longer the successor and the estate transfers to a subsequent successor.

(2) Sections 110–146 of this Act apply upon arrival of the due date or fulfilment of the condition of subsequent succession. The term specified in § 119 of this Act shall commence as of the due date of subsequent succession or as of the moment when a subsequent successor becomes or ought to become aware of the fulfilment of the condition of subsequent succession.

(3) If a subsequent successor renounces the succession or is unworthy to succeed, the estate remains with the provisional successor unless otherwise provided by the will.

(4) Dispositions effected by a provisional successor with regard to objects belonging to the estate after the due date or fulfilment of the condition of subsequent succession are void. A disposition is valid if the provisional successor was not aware nor should have been aware of the fulfilment of the condition of subsequent succession. A disposition is void if a third person was aware or should have been aware of the fulfilment of the condition of subsequent succession upon entry into the transaction.

(5) The obligations which terminated upon the opening of a succession due to consolidation of an obligor and an obligee are restored on the due date or upon fulfilment of the condition of subsequent succession.

Subdivision 5 Legacy

§ 56. Definition of legacy

(1) If in a will a testator does not give all his or her property or a legal share thereof to a person but gives a particular proprietary benefit without regarding the recipient of the benefit as his or her legal successor, the benefit shall be deemed to be a legacy and the recipient of the benefit shall be deemed to be a legatee. A disposition to give a legacy entitles a legatee to demand transfer of an object given as a legacy from the executor of legacy.

(2) A legacy may be a thing, a sum of money, a right, a claim, exemption from an obligation or any other transferable benefit.

§ 57. Executor of legacy

(1) A testator may make execution of a legacy an obligation of a successor or another legatee (both hereinafter *executor of legacy*). If a testator has not appointed an executor of legacy, the successor shall be the executor of legacy.

(2) If the executor of a legacy is deceased, has renounced the estate or legacy or is unworthy to succeed, the obligation to execute the legacy transfers to a person to which the share of the estate transfers which would have belonged to the excluded executor of legacy.

§ 58. Extent of execution of legacy

(1) An executor of legacy is required to execute the legacy to the extent of the property received from the estate.

(2) If an estate is insufficient for execution of all legacies, the legacies are reduced in proportion to their size.

§ 59. Determination of shares in legacy by another person

(1) If a testator gives a legacy to several persons, he or she may leave determination of the size of the share of the legacy of each legatee to the executor of the legacy, the executor of the will or another person.

(2) If the person specified in subsection (1) of this section does not determine the size of the shares during a reasonable period of time after the claim to execute a legacy arises and refuses to do so, the legatees receive the legacy in equal shares.

§ 60. Appointment of alternative legatee

A testator may appoint an alternative legatee. Provisions concerning alternative successors apply to alternative legatees.

§ 61. Giving legacy to successor

- (1) In addition to a share of the estate, a testator may also give a legacy to a successor.
- (2) A successor who is a legatee has the same obligations as other successors to himself and to the other recipients of the legacy unless otherwise provided by the will or succession contract.
- (3) A legatee who is a successor has the right to the legacy even if the legatee has renounced the succession.
- (4) If a legacy is given to several successors jointly, they have the right thereto in proportion to the size of their shares of the estate unless otherwise provided by the will or succession contract.
- (5) If an alternative successor is appointed to a successor who is a legatee, the right to the legacy transfers to the alternative successor only if so provided by the will or succession contract.

§ 62. Arising of claim of execution of legacy

- (1) A claim to execute a legacy arises upon the opening of a succession. A legacy is invalid if the legatee dies before the opening of the succession and an alternative legatee has not been appointed.
- (2) If a legacy is given with a suspensive condition or a due date, the claim to execute a legacy arises upon fulfilment of the suspensive condition or on the due date. If the legatee dies before fulfilment of the suspensive condition or the due date and an alternative legatee has not been appointed, the legacy is invalid, except in the case provided for in § 31 of this Act.

§ 63. Legacy given with suspensive condition and due date

- (1) If a legacy is given with a suspensive condition or due date, and the condition is fulfilled or the due date arrives before the opening of the succession, the legacy shall be deemed to be given without a condition or due date.
- (2) If a legacy is given with a suspensive condition but the condition is not fulfilled within twenty years after the opening of the succession, the legacy is invalid.
- (3) If determination of the time for execution of a legacy is left to the executor of the legacy but the executor of the legacy fails to do so, the claim to execute the legacy arises as of the date of death of the executor of the legacy.
- (4) If a definite sum of money or amount of fungibles is given as a legacy, but the testator permits the executor of the legacy to give them to the legatee by instalments on particular dates and the legatee dies after the opening of the succession, the death of the legatee does not affect the validity of the claim to execute the legacy.

§ 64. Acceptance or renunciation of legacy

- (1) A legatee has the right to accept or renounce a legacy.
- (2) The provisions concerning acceptance or renunciation of succession apply to acceptance or renunciation of a legacy unless otherwise provided by this Act.
- (3) The claim to execute a legacy terminates if a legatee renounces the legacy unless otherwise provided by the will or succession contract.
- (4) Renunciation of a legacy shall not be deemed to be renunciation of a succession.

§ 65. Prohibition of partial acceptance of legacy

- (1) A legatee does not have the right to accept only a part of a legacy given to the legatee or to renounce a part of the legacy.
- (2) If several legacies are given to a legatee, the legatee may renounce all or some of them.

§ 66. Right of legatee to refuse to execute legacy

Execution of a legacy or testamentary obligation shall not be demanded from a legatee before the legatee has the right to demand execution of the legacy given to him or her.

§ 67. Execution of legacy

(1) If a legacy is an object forming part of an estate, it shall be given to a legatee together with the benefit received as of the moment the claim to execute the legacy arises.

(2) If a right is given as a legacy, the proceeds received on the basis of this right shall also be given to the legatee.

(3) If a thing is given as a legacy, the accessories of the thing existing at the time of opening of the succession shall also be given to the legatee.

(4) If an object given as a legacy does not form part of the estate at the time of opening of a succession, the legacy is invalid, except if pursuant to the will or succession contract the executor of legacy has the obligation to procure the object given as a legacy.

(5) If a sum of money is given as a legacy, the money shall be deemed to be given to the legatee even if the estate does not include money.

§ 68. Object with specific characteristics as legacy

(1) If a testator describes only the specific characteristics of an object given as a legacy and there are several such objects in the estate, the legatee shall select the object unless otherwise provided by the will or succession contract.

(2) If in giving a legacy a testator describes only the specific characteristics of an object and the estate does not include such object, the executor of the legacy shall give the legatee an object with similar specific characteristics procured out of the estate unless otherwise provided by the will or succession contract.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 69. Claim as legacy

(1) If a testator gives a claim belonging to him or her as a legacy, but the claim is fulfilled before the opening of the succession and the proceeds received upon fulfilment are included in the estate, the proceeds shall be deemed to be given to the legatee unless otherwise provided by the will or succession contract.

(2) If a claim specified in subsection (1) of this section is monetary, the money shall be deemed to be given to the legatee even if the estate does not include money unless otherwise provided by this Act.

(3) If a testator gives a claim against a successor or a right incumbent on a thing or right of the successor belonging to the testator as a legacy, the obligations which terminated upon the opening of succession due to consolidation of an obligor and an obligee shall not be deemed to be terminated with respect to the legatee.

§ 70. Support as legacy

(1) If a legacy is support in an unspecified amount, the amount thereof shall be agreed by the legatee and the executor of the legacy or, in the case of a dispute, by a court.

(2) If a legacy is support for a minor, it shall be deemed to be given until the person attains the age of majority unless otherwise provided by the will or succession contract.

§ 71. Rights incumbent on object given as legacy

(1) If a legacy is an object forming part of an estate, the legatee shall not demand elimination of the rights incumbent on the object unless otherwise provided by the will or succession contract.

(2) The right of a testator to demand elimination of the rights incumbent on an object forms part of the legacy unless otherwise provided by the will or succession contract.

§ 72. Liability of executor of legacy

If an object given as a legacy is destroyed or its value is decreased due to the fault of the executor of the legacy, the legatee has the right to demand compensation for damage from the executor.

Subdivision 6

Testamentary Obligation

§ 73. Definition of testamentary obligation

(1) A testamentary obligation is a disposition by a testator whereby he or she places an obligation on a successor or legatee (both hereinafter *executor of a testamentary obligation*) in a will or succession contract without the creation in any person of a right corresponding to the obligation.

(2) If it is not apparent from a will whether a testator has made a conditional disposition (§ 35) or a testamentary obligation, a testamentary obligation shall be deemed to have been made.

§ 74. Demand of execution of testamentary obligation

Execution of a testamentary obligation may be demanded by:

- 1) a successor;
- 2) a person to whom the share of the estate given to an executor of a testamentary obligation would transfer if the executor of a testamentary obligation had died before the opening of the succession;
- 3) an executor of the will;
- 4) a local government if execution of the testamentary obligation is in the public interest.

§ 75. Failure to execute testamentary obligation

If an executor of a testamentary obligation is culpable of the violation of duties arising from the testamentary obligation and the performance of the duties is no longer possible, the executor of the testamentary obligation is required to deliver the share of the estate which should have been spent for execution of the testamentary obligation to the other successors or, if there are no other successors, to the person to whom the share of the estate belonging to the executor of the testamentary obligation would transfer, if the executor of the testamentary obligation had died before the opening of the succession.

Subdivision 7 Testamentary Direction

§ 76. Definition of testamentary direction

(1) A testamentary direction is a disposition by a testator whereby he or she obliges a successor or legatee in a will or succession contract to use the estate or legacy for the designated purpose.

(2) A testator may appoint a person for the execution of a testamentary direction (executor of a testamentary direction) who has the rights and obligations of an executor of a will with respect to the assets designated for the execution of the testamentary direction.

§ 77. Failure to execute testamentary direction

If a testamentary direction is not executed, a court may, on the basis of the application of an interested person, nominate an administrator for execution thereof, who has the rights and obligations of an executor of a will with respect to the assets designated for the execution of the testamentary direction.

Subdivision 8 Executor of Will

§ 78. Appointment of executor of will

(1) A testator may appoint in a will one or several persons as an executor of the will. A testator may appoint an alternative executor of will.

(2) Only a person with active legal capacity may be an executor of will.

§ 79. Restriction of successor's right of disposal

A successor does not have the right to dispose of the objects forming part of an estate which the executor of the will requires to perform the obligations thereof.

§ 80. Acceptance of duty of executor of will

(1) A person shall not be required to perform the obligations of an executor of a will prior to acceptance of the duty of executor of the will by the person. No one is required to accept the duty of executor of a will. If a person accepts the duty of executor of a will, the person shall not renounce it without good reason.

(2) If a testator has nominated a successor or legatee as an executor of the will and if such a person has accepted the estate or legacy, the person shall not refuse performance of the duty of executor of the will unless otherwise provided by the will.

(3) In order to accept or renounce the duty of executor of a will, an application shall be submitted to a notary and the notary shall authenticate the application. A notary may set a reasonable term for the acceptance or renunciation of the duty of executor of a will which shall not exceed one month. If a person has not submitted an application during the term set by the notary, the person is deemed to have renounced the duty of executor of the will.

(4) If a person renounces the duty of executor of a will or if the testator has not specified the person of executor of the will, but if based on the will, it is obvious that he or she wishes to appoint an executor of the will, the notary shall appoint an advocate or another person who agrees to perform the duties of executor of the will as an executor of the will. When appointing an executor of a will a notary shall hear the opinion of the successors and legatees. An advocate shall not refuse to accept the duty of executor of a will without good reason.

§ 81. Rights and obligations of executor of will

(1) An executor of a will shall perform the duties provided by law unless otherwise provided by the will.

(2) An executor of a will may derogate from the duties assigned in the will with the consent of interested persons if this is in the interest of executing the testamentary intention of the testator. If the interested persons do not consent to derogation from the duties, a court shall settle the dispute at the request of the executor of the will.

(3) An executor of a will is required to perform the obligations of the administrator of an estate specified in subsection 112 (3) of this Act or apply for administration of the estate until acceptance of the succession by the successor.

(4) An executor of a will is required to execute legacies, testamentary obligations, testamentary directions and other obligations arising from the will or succession contract.

(5) An executor of a will is required to administer prudently and ensure the preservation of the estate necessary for performance of his or her duties.

(6) An executor of a will is required to take an object forming part of an estate into his or her possession or to ensure in other ways the separation of the object from the property of the successor if it is necessary for the performance of the duties of the executor of the will.

(7) An executor of a will has the right to assume obligations with respect to a succession and dispose of objects forming part of an estate, if it is necessary for the performance of the duties of an executor of a will.

(8) If a bequeather has made dispositions with respect to division of an estate, the executor of the will shall divide the estate between the successors pursuant to §§ 152–161 of this Act.

(9) An executor of a will has the right to represent a successor or legatee to the extent necessary for the performance of the duties of the executor of the will.

§ 82. Transfer of estate to successor

(1) An executor of a will is required to deliver to the successor the objects forming part of the estate which are in his or her possession and which he or she does not need for the performance of his or her duties.

(2) If an executor of a will need not himself execute a disposition by the testator, the executor of the will may demand execution thereof by a successor.

§ 83. Liability of executor of will

(1) An executor of a will shall be liable for any damage caused wrongfully to a successor or legatee by violating his or her duties.

(2) If a testator appoints several executors of the will but does not distribute the duties among them, the executors of the will shall perform the duties jointly and are solidarily liable. They are permitted to act alone in the case of unavoidable necessity. The executors of the will are solidarily liable even if they distribute the duties among themselves.

(3) If any executor of a will does not or cannot perform the executor's duties, the other executors of the will shall continue execution of the will.

§ 84. Expenses for execution of will and remuneration of executor of will

(1) The necessary expenses which an executor of a will incurs for performance of his or her duties are reimbursed out of the estate.

(2) An executor of a will has the right to demand reasonable remuneration for his or her activities unless otherwise provided by the will. If the executor of a will is a successor or legatee, the value of the estate or legacy shall be taken into consideration upon determination of the remuneration unless otherwise specified by the testator.

(3) If the successors, legatees and executors of the will fail to agree on the amount of remuneration, a court shall specify the amount of remuneration at the request of an executor of the will.

§ 85. Report of executor of will

(1) An executor of a will is required to report on his or her activity to the successors and legatees.

(2) Immediately after acceptance of his or her duty an executor of a will is required to submit a list of the objects of the estate which he or she requires to perform the obligations thereof.

§ 86. Release of executor of will from duty

If an executor of a will has materially breached his or her obligations, a court may release the executor from the duty of the executor of the will at the request of a successor, legatee or other person who has an interest in the estate.

§ 87. Certificate of executor of will

(1) A notary shall authenticate a certificate of executor of will at the request of an executor of will.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) A certificate of executor of will shall set out which are the rights of the executor of the will upon administration and disposal of the estate and upon assuming obligations with respect to the estate.

(3) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

Subdivision 9 Revocation of Will

§ 88. Right of revocation of will

(1) A testator may revoke a will or a part thereof at any time by a later will or succession contract.

(2) A testator may revoke a notarial will by a notarial or domestic will or a succession contract. A testator may revoke a domestic will by a notarial or domestic will, by destruction of the will or by a succession contract.

(3) If a testator revokes only part of a will, the other part of the will remains valid.

(4) A will made earlier loses validity by a later will or succession contract in so far as it is contrary to the later will or succession contract.

(5) If a testator revokes his or her will, preceding wills do not enter into force unless otherwise provided by the revoking will or succession contract.

(6) If a testator revokes or alters a notarial will by a domestic will and the domestic will becomes invalid pursuant to the procedure provided for in § 25 of this Act, the notarial will is valid.

(7) If a will was made under circumstances which give grounds for revocation of the will pursuant to the General Part of the Civil Code Act, the will may be revoked after the death of the bequeather by the person entitled to succeed in case of invalidity of the will or a part thereof. For revocation of a will an action shall be filed in court. An action for revocation of a will shall be filed in court within one year as of being informed of the circumstances which constitute the basis for revocation, but not later than thirty years after the opening of the succession.

Subdivision 10

Reciprocal Will of Spouses

§ 89. Definition of reciprocal will of spouses

(1) A reciprocal will of spouses is a will made jointly by the spouses in which they reciprocally nominate one another as his or her successor or make other dispositions of the estate in the event of his or her death.

(2) In a reciprocal will of spouses the validity of a disposition made by one spouse depends on the validity of a disposition made by the other spouse if it may be presumed that the disposition of one spouse would not have been made without the disposition of the other spouse. If spouses have made dispositions reciprocally for the benefit of one another or designated to whom the estate of the surviving spouse or other proceeds received on the basis of the reciprocal will transfer, it is presumed that the disposition would not have been made without the disposition of the other spouse.

(3) A reciprocal will of spouses shall be made in a notarially authenticated form.

§ 90. Reciprocal will of spouses for benefit of third person

(1) In a reciprocal will of spouses, whereby they reciprocally nominate one another as sole successor, the spouses may designate to whom the estate of the surviving spouse transfers upon his or her death.

(2) If a reciprocal will of spouses provides that upon the death of the surviving spouse his or her estate transfers to a third person, the surviving spouse who has accepted the succession does not have the right to alter this disposition in the reciprocal will of the spouses or to make different dispositions upon his or her death.

(3) If a reciprocal will of spouses does not provide that the estate must transfer to a third person in the form which exists on the date of death of the earlier deceased spouse, the estate shall transfer to the third person in the form which exists on the date of death of the surviving spouse.

(4) If according to the will the estate must transfer to a third person in the form which exists on the date of death of the earlier deceased spouse, the surviving spouse has the same rights as a provisional successor in the use and disposal of the estate.

§ 91. Joint legacy in reciprocal will of spouses

If, in a reciprocal will of spouses whereby they reciprocally nominate one another as sole successor, spouses give a joint legacy to a third person, the claim to execute a legacy arises after the death of the surviving spouse unless otherwise provided by the will.

§ 92. Independent legacy in reciprocal will of spouses

If spouses give a legacy from their assets in a reciprocal will of the spouses, which is not needed for the execution of the dispositions specified in subsection 89 (2) of this Act, it shall be deemed to be an independent legacy which the surviving spouse is required to execute.

§ 93. Revocation of reciprocal will of spouses

(1) A disposition in a reciprocal will of spouses specified in subsection 89 (2) of this Act may be revoked during the lifetime of both spouses unilaterally by either spouse. A will whereby the disposition specified in the first sentence is revoked shall be notarially authenticated. A disposition shall be deemed to be revoked when the other spouse receives a notice forwarded by the notarial procedure concerning revocation of the disposition.
[RT I, 09.10.2013, 1 - entry into force 19.10.2013]

(2) The other spouse may revoke the disposition specified in subsection 89 (2) of this Act after the death of his or her spouse only if he or she renounces the succession which was given to him or her on basis of the will.

(3) If spouses have nominated a person in the reciprocal will to whom the estate of the surviving spouse or other proceeds received on the basis of the reciprocal will transfers and that person has committed a criminal offence against the bequeather, the bequeather's spouse, ascendant or descendant or has intentionally and materially violated the obligation thereof arising from law to maintain the bequeather, the surviving spouse may revoke his or her disposition also after acceptance of the proceeds received on the basis of the reciprocal will.

§ 94. Invalidity of reciprocal will of spouses

(1) A reciprocal will of spouses becomes invalid if:

- 1) a marriage was divorced or has been terminated before the death of the bequeather;
- 2) the bequeather has filed a claim with a court for divorce or agreed to divorce in writing before his or her death;

3) at the time of his or her death the bequeather is entitled to claim annulment of the marriage and has filed the corresponding claim with a court.

(2) The provisions of subsection (1) of this section shall not apply, if it can be presumed that the bequeather intended otherwise.

Chapter 4

SUCCESSION CONTRACT

§ 95. Definition of succession contract

(1) A succession contract is an agreement between a bequeather and another person whereby the bequeather nominates the other party or another person as his or her successor or gives the party or person a legacy, testamentary obligation or testamentary direction, or an agreement between a bequeather and his or her intestate successor whereby the latter renounces the succession.

(2) An agreement, which prescribes the obligation of a person who is a party to a succession contract, on the basis of which an estate, legacy, testamentary obligation or testamentary direction is received or a succession is renounced is not part of a succession contract and the provisions concerning succession contracts do not apply thereto.

(3) A succession contract and an agreement to alter or terminate it shall be entered into by the bequeather himself or herself. Only a person with active legal capacity may enter into a succession contract as a bequeather.

(4) The provisions concerning a will apply to unilateral dispositions contained in a succession contract and dispositions not specified in subsection (1) of this section.

(5) A disposition specified in subsection (4) of this section may be revoked also in a succession contract whereby a contractual disposition is revoked. A unilateral disposition becomes invalid if a succession contract is terminated by withdrawal from the contract or by a new succession contract.

§ 96. Rights of parties to succession contract

(1) The right of a bequeather to possess, use and dispose of his or her property shall not be restricted by a succession contract.

(2) A contractual successor or legatee shall not acquire rights to the property of a bequeather during the lifetime of the bequeather by a succession contract.

(3) If a bequeather makes a gift with the purpose of causing damage to a contractual successor or legatee, the contractual successor or legatee may demand that the gratuitous contract be declared invalid and that the gift recipient deliver the gift pursuant to provisions concerning unjust enrichment within one year after opening of the succession.

§ 97. Legacy in succession contract

(1) The provisions concerning execution of a legacy given in a will apply to the execution of legacy given in a succession contract.

(2) A disposition to give a legacy to the bequeather's spouse or a third person by a succession contract entered into between spouses becomes invalid if:

- 1) the marriage has been terminated before the death of the bequeather;
- 2) the bequeather has applied for divorce or agreed to divorce in writing before his or her death;
- 3) the bequeather was entitled, at the time of his or her death, to claim annulment of the marriage and has filed the corresponding claim with a court.

(3) The provisions of subsection (2) of this section shall not apply, if it can be presumed that the bequeather intended otherwise.

(4) If a bequeather has destroyed, damaged an object given as a legacy by a succession contract or made it impossible in any other manner to transfer it with the purpose of causing damage to the contractual legatee, the legatee has the right to receive a sum of money as a legacy which corresponds to the value of the object.

§ 98. Succession contract concerning renunciation of succession

(1) If an intestate successor of a bequeather renounces a succession by a contract entered into with a bequeather, the person who would have succeeded if the renouncer of the succession had died before the opening of the succession is entitled to succeed. A renouncer of succession does not have the right to receive compulsory portion.

(2) A right to compulsory portion may be waived by a contract.

(3) If a successor waives his or her intestate right of succession for the benefit of another person, the waiver is valid only if the person for whose benefit the right was waived becomes a successor unless otherwise prescribed by the contract.

(4) If a descendant of the bequeather waives his or her intestate right of succession, it is deemed that the right is waived for the benefit of the other descendants and the spouse of the bequeather unless otherwise determined by the contract.

§ 99. Right of succession of descendants of renouncer of succession by contract

If a descendant or collateral relative of the bequeather renounces the succession by a contract, the descendants of the renouncer do not succeed unless otherwise determined by the contract.

§ 100. Form of succession contract

A succession contract shall be entered into in a notarially authenticated form.

§ 101. Third person in succession contract

(1) If a third person who is designated as a successor or legatee by a succession contract renounces the succession or does not accept the succession or legacy, that part of the contract becomes invalid.

(2) The parties to the succession contract may alter or terminate the contract without the consent of the third person.

(3) The provisions of § 90 of this Act apply to a succession contract entered into between the spouses whereby they reciprocally nominate one another as sole successor and designate to whom the estate of the surviving spouse or other proceeds received on the basis of the succession contract transfer.

§ 102. Cancellation of succession contract

(1) A succession contract or a disposition contained therein may be cancelled during the lifetime of the contracting parties by a notarially authenticated agreement between the persons who have entered into the contract or by a new succession contract.

(2) If a succession contract was entered into under circumstances which give grounds for cancellation of the contract pursuant to the General Part of the Civil Code Act, the cancellation of the contract may be claimed after the death of the bequeather by the person entitled to succeed in case of the invalidity of the succession contract or a disposition contained therein.

(3) For cancellation of a succession contract an action shall be filed in court. An action for cancellation of a succession contract shall be filed in court within one year as of being informed of the circumstances which constitute the basis for cancellation, but not later than thirty years after the opening of the succession.

§ 103. Withdrawal from succession contract

(1) A bequeather may withdraw from the succession contract if:

- 1) the right of withdrawal is agreed upon in the succession contract;
- 2) an entitled person commits an offence against the bequeather, the bequeather's spouse, descendant or ascendant;
- 3) the other party intentionally violates the obligation thereof arising from law to maintain the bequeather;
- 4) the succession contract is entered into by taking into account the obligation of a person who is a party to a succession contract specified in 95 (2) of this Act which consists of performance of recurring obligations, in particular ensuring maintenance of the bequeather during his or her lifetime and the obligated person intentionally and materially violates the obligation.

(2) In order to withdraw from a succession contract, a notarially authenticated statement shall be submitted to the other party. If the active legal capacity of the bequeather is restricted, he or she does not need the consent of the legal representative for withdrawal.

(3) If both parties made the dispositions specified in subsection 95 (1) of this Act in the succession contract (hereinafter *reciprocal succession contract*), the whole contract becomes invalid upon withdrawal of one party in the case specified in clause (1) 1) of this section unless otherwise provided by the succession contract.

(4) In case of a reciprocal succession contract the right of withdrawal extinguishes upon the death of the other party. After the death of a party the other party may revoke his or her disposition only in case the other party renounces the share allocated to him or her by the succession contract.

Chapter 5

COMPULSORY PORTION

§ 104. Succession of compulsory portion

(1) If a bequeather has by a will or succession contract disinherited a descendant, his or her parents or spouse who are entitled to succeed in intestacy and with respect to whom the bequeather bears, at the time of his or her death, a maintenance obligation arising from the Family Law Act or a bequeather has reduced their shares of the estate as compared to their shares according to intestate succession, they have the right to claim a compulsory portion from the successors.

(2) The bequeather's parents and distant descendants are not entitled to claim a compulsory portion if a descendant who would exclude them in the case of intestate succession may claim a compulsory portion or accepts the estate given to him or her.

(3) If a compulsory portion is given to a person by a will or succession contract, it shall not be deemed to be nomination as successor in the case of doubt.

(4) The claim for a compulsory portion arises with opening of the succession. The claim is inheritable and transferable.

(5) The claim for a compulsory portion is directed at the receipt of money in the amount provided for in § 105 of this Act.

§ 105. Size of compulsory portion

(1) A compulsory portion is one-half of the value of the share of an estate which a successor would have received in the case of intestate succession if all intestate successors would have accepted the succession. The persons who renounce a succession by a contract shall not be taken into account upon determining the size of a compulsory portion.

(2) If a person entitled to claim a compulsory portion has been bequeathed a share of an estate which is smaller than a compulsory portion, he or she may claim the deficient share as a compulsory portion from the co-successors.

(3) If one from several successors has the right to receive a compulsory portion, he or she may refuse to satisfy the claim of some other person entitled to compulsory portion to such extent that he or she would receive his or her compulsory portion. Other successors shall be liable for the deficit.

(4) If a legacy is given to a person entitled to a compulsory portion, he or she has a claim for the compulsory portion only in case he or she renounces the legacy. If the value of a legacy is lower than a compulsory portion, the person may claim a compulsory portion from the successors to the extent which he or she received less as legacy than he or she would have received as a compulsory portion.

§ 106. Value of estate

(1) Determination of the size of a compulsory portion shall be based on the property which forms part of the estate as at the date of opening of the succession.

(2) In the specification of the compulsory portion, provisional successions, the spouse's preferential share and gifts made by the bequeather to other persons within the last three years before the death of the bequeather for the purpose of reducing the compulsory portion shall also be considered part of the estate.

(3) In the specification of the compulsory portion, the burial expenses of the bequeather, expenditure for preparation of an inventory of the estate and valuation of the estate, and one month's maintenance expenditure for persons who were maintained by the bequeather shall not be considered part of the estate.

(4) In the specification of the compulsory portion, the rights and obligations depending on a suspensive condition shall not be considered part of the estate. The rights and obligations depending on a resolutive condition shall be taken into account as nonconditional. Upon the fulfilment of the condition a set-off corresponding to the changed legal situation shall be made.

(5) If a bequeather makes a gift to a third person with the purpose of causing damage to the person entitled to claim a compulsory portion, the person entitled to claim a compulsory portion may within one year as of the opening of the succession claim supplementation of the compulsory portion by the amount by which the compulsory portion would increase if the gift would be deemed to form part of the estate.

(6) The claim specified in subsection (5) of this section shall not be satisfied if ten years have passed from making the gift. If a gift is made to the bequeather's spouse, the term shall not commence before termination of the marriage.

(7) If the successor is entitled to claim a compulsory portion, he or she may refuse the supplementation of the compulsory portion to the extent that he or she would receive his or her compulsory portion including the share he or she would receive as supplement of the compulsory portion.

§ 107. Encumbrances of compulsory portion

(1) If the rights of a person nominated as a successor and entitled to compulsory portion are restricted by nominating a subsequent successor or an executor of the will, or if he or she is encumbered by a testamentary obligation, the restriction or encumbrance shall not be valid if the share of the estate bequeathed to him or her is less than one-half of the share of the estate belonging to him or her in intestacy.

(2) If the bequeathed share of an estate is bigger, the person entitled to compulsory portion may claim the compulsory portion in case of renunciation of the share of the estate. The term for renunciation commences at the moment when the person entitled to compulsory portion becomes aware of the restriction or encumbrance.

(3) The restriction of nomination of a person as a successor is equal to nomination of a person entitled to compulsory portion as a subsequent successor.

§ 108. Disinheritance of compulsory portion

(1) A bequeather may by a will or succession contract disinherit of a compulsory portion a person who commits a criminal offence against the bequeather, the bequeather's spouse, ascendant or descendant, or another person especially close to the bequeather, or a person who has intentionally and significantly violated the obligation thereof arising from law to maintain the bequeather. In such case, the bequeather shall express the reason for disinheritance of the compulsory portion.

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(2) Disinheritance of a compulsory portion is invalid if the bequeather fails to indicate the reason for the disinheritance or the reason is not in accordance with the provisions of subsection (1) of this section.

§ 109. Expiry of claim for compulsory portion

(1) A claim for compulsory portion expires after three years of the moment the person entitled to compulsory portion becomes aware of the opening of the succession and the disposition affecting his or her rights.

(2) Regardless of the provisions of subsection (1) of this section, the claim for a compulsory portion expires ten years after the opening of the succession.

(3) If renunciation of an estate or legacy is the prerequisite for the creation of the claim for a compulsory portion, the provisions of subsections (1) and (2) of this section shall apply to the beginning of expiry.

Chapter 6 SUCCESSION PROCESS

Division 1 Management of Estate

§ 110. Management measures

(1) Upon the death of a bequeather a court shall apply measures for management of the estate, if:

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- 1) a successor is not known;
- 2) a successor is not in the location of the estate;
- 3) it is not known if a successor has accepted the succession;
- 4) a successor is with restricted active legal capacity and no guardian has been appointed for him or her;
- 5) other bases provided by law exist.

(2) The measures for management of an estate are:

- 1) organisation of administration of the estate;
- 2) application of measures to secure an action provided for in the Code of Civil Procedure.

(3) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 111. Application of management measures

(1) The measures for management of an estate may be applied until acceptance of the estate by successors unless otherwise provided by law.

(2) A court shall apply measures for management of an estate on its own initiative unless otherwise provided by law.

(3) A court may decide on the application of measures for management of an estate also at the request of a creditor of the bequeather, legatee or any other person who has a claim in respect of the estate if failure to apply the management measures may endanger satisfaction of a claim belonging to the abovementioned person out of assets of the estate.

(4) In the event of a dispute on who is the successor, a court may decide on the application of measures for management of an estate also at the request of a person claiming recognition of the right of succession.

(5) In the cases specified in subsections (3) and (4) of this section application of management measures may be decided on also after acceptance of the succession by successors, especially if the activity of a successor or the successor's proprietary situation may endanger preservation of the estate and satisfaction of the claim out of assets of the estate.

(6) State and local government agencies, notaries and bailiffs are required to inform a court of the necessity to apply management measures which has become known to them.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 112. Administration of estate

(1) A court shall nominate an administrator for administration of an estate, to whom the court may issue orders for possession, use and disposal of property. When nominating an administrator of an estate a court shall appoint a bailiff for making an inventory of the estate by applying §§ 138–141 of this Act correspondingly.

(2) A person who is able to administer the estate as required and who is suitable for performing the obligations of an administrator may be the administrator. The court may release an administrator who fails to administer an estate as required from the administration obligations.

(3) An administrator is required:

- 1) to administer property prudently and ensure its preservation;
- 2) to provide maintenance out of the estate to a person specified in § 132 of this Act;
- 3) to fulfil obligations related to the estate out of the estate;
- 4) to report on administration of the property to the court and successors;
- 5) in the case specified in subsection 111 (3) of this Act and also in other cases it is necessary in order to ensure the preservation of the estate, to take the estate in the possession of a successor or a third party into his or her possession or guarantee separation of the estate from the property of a successor in any other manner;
- 6) to submit an application for initiation of succession proceedings to a notary, if necessary, or to take other measures for the identification of the successor if Estonian notaries are not competent to conduct the succession proceedings.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(4) An administrator may dispose of the estate only for the performance of the obligations thereof and for covering the expenses related to the administration of the estate. An administrator does not have the right to dispose of an immovable belonging to an estate without court authorisation.

(5) A successor does not have the right to dispose of the estate which is transferred to an administrator to administer.

(6) A court may refuse to designate administration of an estate if the estate is presumably not sufficient to cover the expenses related to the administration. A court shall designate the administration of an estate if the person who applies for administration pays the amount which presumably corresponds to the incurred expenses to the prescribed account as a deposit.

[RT I, 31.01.2014, 6 - entry into force 01.07.2014]

(7) If a successor has not become known within six months after the opening of the succession, or if a successor who accepted the succession does not commence administration of the estate within six months as of acceptance of the succession, the administrator of the estate may sell the estate after an inventory and deposit the money received from the sale of the estate. In this case, the provisions of subsection (4) of this section do not apply.

§ 113. Performance of obligations by administrator of estate

(1) If administration of an estate is designated, the administrator of the estate shall, after making an inventory, satisfy the claims entered in the inventory of the estate for which the due date for fulfilment has arrived. The administrator of the estate may fulfil the claims not yet due only with the consent of the successor. If the administrator contests a claim, the court shall decide on the satisfaction of the claim on the basis of a statement of claim of the creditor.

(2) If administration is designated pursuant to subsection 111 (3) of this Act, the administrator is required, after preparation of the inventory of the estate, to satisfy all the claims entered in the inventory of the estate out of assets of the estate in the order specified in § 142 of this Act. An estate shall not be delivered to a successor prior to satisfaction of the claims. If an administrator or a successor contests a claim, the court shall decide on the satisfaction of the claim on the basis of a statement of claim of the creditor.

§ 114. Remuneration for administration of estate

The administrator of an estate has the right to receive remuneration out of the estate for administration of the estate. The amount of remuneration for administration shall be specified by a court.

§ 115. Termination of measures for management of estate

(1) A court shall terminate the measures for the management of an estate if the bases for application of management measures provided for in §§ 110 and 111 of this Act cease to exist.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) A court shall terminate administration of an estate if the estate is not sufficient to compensate for the expenses related to the administration and the amount which presumably corresponds to the expenses incurred in the course of administration is not paid to the prescribed account as a deposit within a term provided by the court.
[RT I, 31.01.2014, 6 - entry into force 01.07.2014]

(3) If application of management measures is decided pursuant to subsections 111 (3) and (4) of this Act, the person who applied for the application of management measures shall be heard before the termination of the management measures.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

Division 2

Acceptance and renunciation of succession

§ 116. Irrevocability of acceptance and renunciation

(1) A successor may accept or renounce a succession.

(2) A succession can no longer be renounced after acceptance unless otherwise provided by law. A succession can no longer be accepted after renunciation.

§ 117. Acceptance and renunciation by will or contract

(1) If a testate or contractual successor renounces a succession, the testate or contractual successor cannot by a will or contract succeed in intestacy to the estate given to the testate or contractual successor except the compulsory portion of the estate.

(2) If a successor is entitled to succeed both by testate and contractual succession, the successor may at his or her discretion accept the succession either by will or contract or by both unless the will and the contract are contradictory.

§ 118. Procedure for acceptance or renunciation

(1) If a successor does not renounce the succession within the term provided for in § 119 of this Act, the successor shall be deemed to have accepted the succession.

(2) Regardless of the provisions of subsection (1) of this section, a successor may submit an application for acceptance of the succession to the notary settling the succession before expiry of the term specified in § 119 of this Act and the notary shall authenticate the application.

(3) For renunciation of a succession, a written application shall be submitted to a notary within the term provided for in § 119 of this Act and the notary shall authenticate the application.

(4) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 119. Term for renunciation

(1) The term for renunciation is three months. The term shall commence from the moment the successor becomes aware or ought to become aware of the death of the bequeather and of his or her right of succession.

(2) On the basis of an application of a person entitled to succeed, a notary may extend the term specified in subsection (1) of this section or specify a new term, if the person entitled to succeed allowed the term to expire with good reason and the other persons entitled to succeed do not object to it. In case of a dispute the matter shall be adjudicated by a court.

§ 120. Succession of right to accept and renounce

If a person entitled to succeed dies without being able to accept or renounce the succession, his or her successors have the right to renounce the succession within the same term within which they have the right to renounce the succession of the person entitled to succeed.

§ 121. Information concerning estate

Before acceptance or renunciation of a succession, a person entitled to succeed has the right to receive information concerning the composition of the estate and the content of the will or succession contract from a court, notary or other person who possesses the estate, the will or succession contract.

§ 122. Disallowance of conditional acceptance and renunciation

(1) A conditional acceptance or conditional renunciation of succession is not permitted.

(2) An application for partial acceptance or partial renunciation of a succession or an application for conditional acceptance or conditional renunciation of a succession is void.

§ 123. Declaration of acceptance and renunciation of succession invalid

(1) A court may declare the acceptance or renunciation of a succession invalid on the bases provided for in §§ 92, 94 and 96 of the General Part of the Civil Code Act.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) A successor may apply for the acceptance or renunciation of a succession to be declared invalid due to an error only if he or she accepts or renounces a succession due to an error regarding whether the successor succeeds by intestate or testate succession or by succession contract.

(3) If a court declares acceptance or renunciation of a succession invalid, the successor shall be deemed to become aware of the right of succession on the date of entry into force of the court judgement.

§ 124. Succession in case of renunciation of succession

(1) If a person entitled to succeed renounces a succession, the person who would have succeeded if the renouncer of the succession had died before the opening of the succession is entitled to succeed.

(2) A person who replaces the renouncer of a succession may accept or renounce the succession within the same term that the renouncer had the right to accept or renounce. The term is calculated from the date the person who replaces the renouncer of the succession becomes aware of the renunciation.

§ 125. Local government and state

(1) In the case of intestate succession, a local government or the state cannot renounce the succession.

(2) In the case of intestate succession, a local government or the state shall be deemed to accept the succession regardless of whether the requirements for acceptance of the succession are met.

(3) If no successor is known and no successor reports of himself or herself within one month from the publication of the call in the calling proceedings for determining the successor, or if a person who has reported of himself or herself fails to certify his or her right of succession within one month after the due date of the calling proceedings, it is presumed that the intestate successor is the local government of the place of opening of a succession or the state in the case specified in § 18 of this Act.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(4) In the case specified in subsection (3) of this section, the successor may reclaim the estate from the local government or state pursuant to § 146 of this Act.

§ 126. Rights of creditor in case of renunciation of succession

A creditor may demand that the debts of a renouncer of a succession which cannot be paid from the property of the renouncer be paid from the share of the estate to which the renouncer is entitled. The residual estate remaining after satisfaction of the debts transfers to the successors who succeed in place of the renouncer of the succession.

Division 3 Right of Accretion

§ 127. Increase in share of estate on basis of right of accretion

(1) If a bequeather nominates by a will or succession contract several persons as successors such that intestate succession is precluded and one of the successors dies before the opening of the succession or renounces the succession by a succession contract (§ 98), or pursuant to the procedure provided for in § 118 of this Act, the successor's share of the estate is divided on the basis of the right of accretion among the other testate or contractual successors of the estate in proportion to the size of their shares of the estate unless otherwise provided by the will or succession contract..

(2) The legacies and other obligations incumbent on a share of an estate being transferred on the basis of the right of accretion also transfer together with the share.

§ 128. Right of accretion upon testate succession and contractual succession

If a bequeather bequeaths a joint share of his or her property by a will or contract to several successors without specifying the share of each successor, the share of the estate remains with the other successors of the same share of the estate on the basis of the right of accretion unless otherwise provided by the will or succession contract.

§ 129. Inapplicability of right of accretion

The right of accretion does not apply if a bequeather prohibits it by a will or succession contract or if a successor who has not renounced or accepted the succession has an alternative successor.

Division 4 Rights and obligations of successor, liability for the obligations of the bequeather

§ 130. Transfer of rights and obligations of bequeather

(1) With the acceptance of a succession, all rights and obligations of the bequeather transfer to the successor except those which by their nature are inseparably bound to the person of the bequeather or which pursuant to law do not transfer from one person to another.

(2) In the cases provided by law, rights inseparably bound to the person of the bequeather may transfer to a successor.

(3) A successor is required to perform all the obligations of the bequeather. If an estate is insufficient, a successor shall perform the obligations out of the successor's own property unless the successor has, after making an inventory, performed the obligations pursuant to the procedure provided by law, the estate has been declared bankrupt or the bankruptcy proceedings have been terminated by abatement without declaring bankruptcy.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 131. Funeral expenses of bequeather

(1) A successor shall bear the funeral expenses of the bequeather, considering custom and the size of the estate. If the estate is insufficient for the funeral expenses, the successor shall bear these expenses on the successor's own account.

(2) Each successor shall bear the funeral expenses of the bequeather in proportion to the size of the successor's share of the estate unless otherwise provided by the will or succession contract.

(3) A bequeather may specify in a will or succession contract who shall bear his or her funeral expenses. If the estate or legacy of a successor or legatee is insufficient for the funeral expenses of the bequeather, the other successors shall bear the funeral expenses which exceed the share of the estate or the legacy in proportion to the size of their share of the estate.

§ 132. Expenditure for maintenance of family members of bequeather

The family members of a bequeather who lived with him or her and received maintenance from him or her until the bequeather's death have the right to continue using the objects of the shared household and to receive maintenance out of the estate for one month after the death of the bequeather.

§ 133. Obligations by will and succession contract

A successor who accepts the succession is required to execute the dispositions, legacies, testamentary obligations, testamentary directions, claims for compulsory portion and other obligations provided by the will or succession contract.

§ 134. Right to refuse performance of obligations

(1) The performance of the obligations of the bequeather and the performance of the obligation specified in §§ 131 and 133 of this Act may not be demanded from the successor before acceptance of the succession.

(2) If a court applies measures for management of an estate, the successor may refuse performance of the obligations of the bequeather and the obligation specified in §133 of this Act until termination of the management measures. This does not preclude performance of obligations by an administrator if administration of an estate is designated.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(3) The provisions of subsections (1) and (2) of this section do not apply if a creditor requiring performance of the obligation has the right of security over an object forming part of the estate in order to secure performance of the obligations and three months have passed from the opening of the succession or if the obligation is secured by a preliminary notation entered in the land register.

(4) The provisions of subsections (1) and (2) of this section do not apply also if a person requests exclusion of an object belonging to him or her from the estate.

§ 135. Liability of successor upon inventory of estate

(1) If a successor requests an inventory of the estate, he or she may refuse performance of the obligations of the bequeather and the obligation specified in §133 of this Act until an inventory is made but not longer than until expiry of the term of the inventory.

(2) The provisions of subsection (1) of this section do not apply if a creditor requiring performance of the obligation has the right of security over an object forming part of the estate in order to secure performance of the obligations and three months have passed from the opening of the succession or if the obligation is secured by a preliminary notation entered in the land register.

(3) The provisions of subsection (1) of this section do not apply also if a person requests exclusion of an object belonging to him or her from the estate.

(4) If a successor requests an inventory of the estate, the creditors of the successor are forbidden to satisfy the claims for payment thereof against the successor from the estate until an inventory is made but not longer than until expiry of the term of the inventory.

§ 136. Obligatory inventory

(1) If a person with restricted active legal capacity, a local government or the state is a successor, an inventory of the estate is obligatory.

(2) If the legal representative of a person with restricted active legal capacity does not request an inventory of an estate in the interest of the successor, the legal representative is personally liable for the debts of the bequeather which cannot be sufficiently satisfied from the estate.

§ 137. Submission of claim for inventory

(1) A successor who accepts the succession may submit a claim for inventory to a notary. If a successor submits a claim for inventory before acceptance of the succession, a notary shall appoint a maker of the inventory after the person who submits the claim for inventory has accepted the succession.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) A successor may submit a notarially authenticated claim for inventory to a notary within three months after the successor becomes aware or should have become aware of the circumstances from which it can be presumed that the estate is insufficient for covering the claims of the creditors of the bequeather.

(3) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 138. Appointment of maker of inventory

A notary shall appoint a bailiff for making an inventory. If a succession opens in a foreign state, a notary shall appoint a bailiff in whose territorial jurisdiction the immovable forming part of the estate is located for making an inventory. If a succession opens in a foreign state and the estate does not include an immovable located in Estonia, a notary shall appoint a bailiff at his or her discretion.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 139. Procedure for and term of inventory

(1) A person who submits a claim for inventory shall submit a list of the estate and the obligations related to the estate known to him or her to the maker of the inventory. The maker of the inventory may set a term to the person who submits a claim for inventory for supplementation of the list.

(2) A notary shall submit the known data required for making an inventory to the maker of the inventory.

(3) The maker of an inventory has the right to receive information concerning the estate from a successor, credit institutions and other persons who possess the estate or who have information concerning the estate.

(4) A notary shall provide a term for making an inventory which shall not be shorter than two months and not longer than three months. The notary may extend the term of an inventory for good reason.

(5) In the course of making an inventory, an inventory of the estate is prepared which sets out all inheritable things, rights and obligations existing at the time of opening of the succession, their description and appraisal necessary for their designation and valuation. The inventory of the estate shall be submitted to a notary.

(6) If an inventory is made during application of estate management measures, a new inventory of the estate is not required to be made at the request of a successor without good reason.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(7) If an inventory is made at the request of one successor, the consequences specified in § 143 of this Act apply to all the successors who requested an inventory of the estate. In this case a new inventory of the estate is not required to be made at the request of another successor without good reason.

(8) The expenses for making an inventory are reimbursed out of the estate.

(9) The minister responsible for the area may establish a specific procedure for making an inventory of the estate.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 140. Calling proceedings for determining obligations of bequeather

(1) In order to determine the obligations of the bequeather, calling proceedings shall be carried out in the course of making an inventory.

(2) In order to carry out calling proceedings the maker of the inventory shall publish a notice in the official publication *Ametlikud Teadaanded* setting out at least the following information:

[RT I 2010, 38, 231 - entry into force 01.07.2010]

- 1) a notice of the death of the bequeather and the fact that a successor or any other entitled person requests an inventory of the estate;
- 2) a call to persons with claims and rights with regard to the estate to notify the maker of the inventory of their claims and rights within one month after publication of the call;
- 3) consequences of failure to notify of a claim or right within the specified term.

(3) In calling proceedings, claims which are secured by a possessory pledge or a pledge entered into a public register and claims specified in §§ 131–133 of this Act need not be given notification of.

[RT I 2008, 53, 296 - entry into force 26.12.2008]

§ 141. Preparation of inventory of estate and submission of inventory of estate to notary

(1) An inventory of an estate shall set out all the objects forming part of the estate, the claims submitted in calling proceedings within the specified term and the claims specified in subsection 140 (3) of this Act. The claims of the creditors of the bequeather known to the maker of the inventory shall also be entered in the inventory.

(2) The inventory of the estate shall be submitted to a notary. Making an inventory shall be deemed to be terminated after submission of the inventory of the estate to a notary.

§ 142. Order of performance of obligations

- (1) After making an inventory the obligations related to an estate shall be performed as follows:
- 1) in the first order, expenses are paid for the bequeather's funeral, maintenance of his or her family members, administration of the estate and making of the inventory;
 - 2) in the second order, the claims of the creditors of the bequeather submitted in calling proceedings within the specified term and the claims ascertained in the course of making the inventory are satisfied;
 - 3) in the third order, legacies, testamentary obligations and testamentary directions are executed.
- (2) The obligations of a subsequent order are performed after complete performance of the obligations of a preceding order.
- (3) If an estate is insufficient for performance of the obligations of one order, these are performed out of the estate in proportion to their size.
- (4) If a successor performs his or her obligations in an order other than provided for in this section or prefers one creditor to another upon the performance of obligations, the successor shall be liable for damage caused thereby to the other creditors.
- (5) In a will or succession contract a bequeather may assign performance of an obligation to a successor or legatee but shall not change the procedure for performance of obligations provided for in subsections (1)-(3) of this section.
- (6) If an estate is insufficient for the satisfaction of all the claims specified in clauses (1) 1) and 2) of this section and the successor does not agree to satisfy the claims out of the successor's own property, the administrator of the estate or the successor is required to submit promptly an application for the declaration of bankruptcy of the estate.
- [RT I 2008, 53, 296 - entry into force 26.12.2008]

§ 143. Liability of successor after inventory of estate

- (1) After making an inventory the liability of a successor for obligations related to the estate is restricted to the value of the estate.
- (2) If a successor has fulfilled the claim specified in subsection 141 (1) of this Act before making an inventory, the successor shall be liable for damage caused thereby to the other creditors if the successor knew or should have known at the time of the performance of the obligation that the claims of the creditors of the bequeather may exceed value of the estate.
- (3) After making of an inventory a successor shall be liable for the fulfilment of the claims not filed on time in calling proceedings only to the extent that he or she has been enriched out of the estate at the moment of notification of a claim.

§ 144. Bad faith of successor upon preparation of inventory of estate

If a successor does not disclose things or rights forming part of the estate to be entered in the inventory of the estate or discloses non-existent obligations in order to damage the creditors of the bequeather, the successor is also liable for the performance of the obligations of the bequeather with the successor's own property.

§ 145. Liability of person making inventory

If a person who is making an inventory wrongfully leaves things or rights which form part of the estate out of the inventory or enters non-existent obligations in the inventory in order to damage the interests of creditors or other persons entitled to receive benefit from the succession, he or she shall be liable for the damage pursuant to the Bailiffs Act.

§ 146. Delivery of estate

- (1) A person who possesses an estate as a successor but is not entitled to succeed is required to deliver the estate to a successor, executor of the will or administrator of the estate.
- (2) If the person specified in subsection (1) of this section has given a thing which forms part of the estate to a person to whom the person should not have given it, the right exists to claim delivery even from a possessor in good faith.
- (3) A person who delivers an estate has the right to deduct from the estate being transferred the bequeather's funeral expenses incurred by the person, that which was transferred to an intestate successor and that which was transferred for execution of the dispositions in the will or succession contract.

(4) An obligation which the person who possessed an estate must assume themselves due to possession of the estate transfers to a successor together with the estate.

Division 5 Co-successors

Subdivision 1 General Provisions

§ 147. Legal relations of co-successors

If several successors have accepted the succession (co-successors), the estate is owned by the successors jointly (hereinafter *community of the estate*). The provisions of common ownership apply to the community of the estate and the relations between co-successors.

§ 148. Right of co-successor to dispose of legal share

(1) A co-successor may dispose of the legal share in the community of the estate belonging to the co-successor. A co-successor shall not dispose of the objects forming part of the estate or a legal share of the objects independently.

(2) Only the proprietary rights and obligations of a co-successor, in particular the right to claim the share of the estate which the co-successor would have received upon division of the estate transfer to the acquirer of a share. The co-successor and the acquirer of a share shall be solidarily liable for the performance of the obligations which encumber the estate.

(3) The acquirer of a share does not have decision-making powers upon the division of objects with special sentimental value to a co-successor unless otherwise provided by an agreement between the co-successors.

(4) A transaction by which a co-successor undertakes to acquire or dispose of a share of the community of the estate or by which a co-successor disposes of the share of the community of the estate belonging to him or her shall be notarially authenticated.

§ 149. Right of pre-emption of co-successor

(1) If a co-successor sells his or her share of the community of an estate to a third person, the other co-successors shall have the right of pre-emption.

(2) The term for exercise of right of pre-emption is two months.

(3) The transferor of a share is required to notify promptly the co-successors of the transfer of ownership of a share.

(4) By transferring the ownership of a share of the community of the estate to co-successors the buyer shall be released from liability for performance of the obligations encumbering the estate which are related to the acquisition of a share of the community of the estate.

§ 150. Prohibition to set off

A debtor shall not set off the claim which is included in the estate with a claim against another co-successor belonging to the debtor.

§ 151. Distribution of obligations and expenditure

(1) The obligations incumbent on an estate and the expenses for the bequeather's funeral, maintenance of family members, administration and inventory of the estate, and other necessary expenses incurred in connection with the estate shall be distributed among the co-successors in proportion to their share of the estate unless otherwise provided by the will or succession contract.

(2) The successors shall be solidarily liable for the performance of an obligation which is part of the estate.

Subdivision 2

Division of Estate

§ 152. Definition and manner of division of estate

(1) Division of an estate may be demanded by any co-successor unless the provisions of § 155 of this Act provide otherwise. Upon division of an estate, it shall be determined which things or shares of things and which rights and obligations forming part of the estate transfer to each co-successor.

(2) An estate shall be divided among successors according to their shares of the estate, based on the usual value of the objects forming part of the estate at the time of the division. By agreement of the successors, a thing forming part of the estate may be valued on the basis of the special interest of a successor.

(3) Upon division of an estate, the provisions concerning division of a thing in common ownership apply unless otherwise provided by this Act.

(4) Co-successors shall divide an estate by agreement. In the case of a dispute, a court shall divide the estate at the request of a successor.

§ 153. [Repealed - RT I 2008, 53, 296 - entry into force 26.12.2008]

§ 154. Partial division of estate

(1) If an estate is divided at the request of only one or several co-successors, the other co-successors continue joint possession, use and disposal of the share of the estate remaining with them.

(2) At least two co-successors may demand that a joint share of the estate be separated for them, which they continue to possess, use or dispose of pursuant to the provisions concerning common ownership.

§ 155. Restrictions on division of estate

(1) Division of an estate may be demanded only on the condition that all successors are known.

(2) If successors enter into an agreement that the estate is not to be divided during a particular term, the estate shall not be divided before expiry of the agreed term. If a term is not agreed to or the term is longer than ten years, the term shall be deemed to be ten years after the date of opening of the succession.

(3) An estate shall not be divided during the term specified by the will or succession contract unless the successors agree otherwise. If division of an estate is prohibited by the will or succession contract without specifying a term or if the term is longer than thirty years, the term shall be deemed to be thirty years after the date of opening of the succession.

§ 156. Divisible property

(1) The property which co-successors acquire on the basis of rights belonging to the estate or out of the estate or as compensation for the destruction of, damage to or seizure of objects included in the estate forms part of an estate. The provisions of §§ 162-164 of this Act apply upon division of an estate.

(2) The benefit shall be allocated only upon the division of the estate. If division is precluded for longer than one year, a co-successor may demand allocation of net income at the end of each year.

(3) For division of an estate, the successors are required to disclose information necessary for determination of the divisible property and for division of the estate.

§ 157. Claim of bequeather against successor

If a bequeather had a claim against a successor, it shall be taken into account upon determination of the property transferred to the debtor upon division of the estate.

§ 158. Remuneration for helping bequeather

A descendant of a bequeather who is a co-successor and has significantly helped the bequeather in a shared household or economic or professional activity with his or her property or work and if the estate has been retained or increased as a result of it may upon division of the estate demand fair compensation therefor out of the estate.

§ 159. Distribution of objects forming part of estate

(1) In the distribution of objects forming part of an estate, the special needs and interests of each co-successor, the wishes of the majority of co-successors and the testamentary intention of the testator pursuant to the will or succession contract shall be considered.

(2) An object forming part of an estate which cannot be divided into physical shares or an object which if remaining in the common ownership of the successors could not be used purposefully shall be transferred to one successor.

(3) If the successors fail to agree as to whom an object shall be transferred, the object shall be sold by public auction or auction among the successors and the money received shall be divided among the successors in proportion to the size of their shares of the estate.

(4) If upon division of an estate the value of the property remaining with a successor is greater than the successor's share of the estate, the successor is required to pay monetary compensation to the other successors.

(5) Upon division of an estate, things belonging to a set shall not be separated from one another if even one successor is opposed to the separation or unless otherwise provided by the will or succession contract.

§ 160. Things with special sentimental value

Upon division of an estate, things with special sentimental value to a family shall not be sold if even one successor is opposed to the sale. In this case, the object shall be sold by auction among the successors.

§ 161. Additional division of estate

If after division of an estate it becomes evident that a share of the property has not been considered, the share shall also be divided.

Subdivision 3 Provisional Succession

§ 162. Definition of provisional succession

(1) A provisional succession is property which a bequeather has granted to his or her descendant who would be the bequeather's intestate successor upon the opening of the succession.

(2) Property received by gift is a provisional succession if the bequeather has so designated upon making the gift.

(3) Provisions concerning provisional succession only apply upon intestate succession. If the size of the shares of an estate in a will or succession contract does not differ from the size of intestate shares of an estate, §§ 162–164 of this Act shall apply also in the case of a testate succession.

§ 163. Transfer of provisional succession

If a descendant who receives a provisional succession dies after the opening of the succession, renounces or does not accept the succession, the successor who replaces the descendant shall be deemed to receive the provisional succession.

§ 164. Consideration of provisional succession

(1) In the determination of the size of an estate being divided, the value of a provisional succession shall be considered. In the distribution of the objects forming part of an estate, the successor who received a provisional succession shall be deemed to have received a share of the estate corresponding to the provisional succession.

(2) If a provisional succession is larger than the share of the estate of the successor who received it, the successor is not required to compensate the other successors for the share of the provisional succession exceeding the share of the estate. The share receivable by the other successors decreases by this amount upon division of the estate.

(3) A successor who receives a provisional succession has the right to include the provisional succession in the divisible estate if the value of the provisional succession has not significantly decreased after its receipt. In such case, the gift shall not be deemed to be a provisional succession.

(4) Upon division of an estate, property received as a provisional succession shall not be considered if it no longer exists and the provisional successor has not received benefit from the property and is not at fault for the destruction thereof.

Division 6

Succession proceedings at notary

§ 165. Competence of notary

(1) The notarial acts specified in this Chapter shall be performed by a notary at which the succession proceedings are initiated.

(2) Succession proceedings shall be conducted by an Estonian notary if he bequeather's last residence was in Estonia.

(3) If the last residence of a bequeather was in a foreign state, an Estonian notary shall conduct succession proceedings only with respect to property located in Estonia provided that the succession proceedings cannot be conducted in the foreign state or the proceedings conducted in the foreign state do not include the property located in Estonia or the succession certificate prepared in the foreign state is not recognised in Estonia.

(3¹) Succession proceedings shall be conducted by an Estonian notary if, pursuant to Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107–134), the succession proceedings are required to be conducted in Estonia by applying Articles 4–15 and 17 of the specified Regulation. If the conducted succession proceedings fall outside the scope of Regulation (EU) No 650/2012 of the European Parliament and of the Council, the provisions of subsections (2) and (3) of this section shall apply. [RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(4) A succession certificate prepared in a foreign state is recognised in Estonia pursuant to Regulation (EU) No 650/2012 of the European Parliament and of the Council. In the case the specified Regulation is not applicable, a succession certificate prepared in a foreign state shall be recognised in Estonia if the procedure for the preparation and the legal effect thereof are comparable to the provisions of Estonian law concerning succession certificates. In such case, the provisions of the Code of Civil Procedure concerning the recognition of judgments of foreign courts shall apply to recognition. Recognition shall be adjudicated by Harju County Court. [RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(4¹) The provisions of subsection (4) of this section also apply to the recognition of other succession documents. [RT I 2010, 38, 231 - entry into force 01.07.2010]

(5) Any notary may authenticate an application for renunciation of a succession. After authenticating an application for renunciation of a succession the notary shall forward the application to the notary conducting the succession proceedings.

(6) The procedure for performance of notarial acts pursuant to this Act shall be established by the minister responsible for the area.

§ 166. Initiation of succession proceedings

(1) For initiation of succession proceedings a successor, a creditor of the bequeather, a legatee or any other person who has rights in respect of the estate shall submit a corresponding notarially authenticated application to a notary.

(2) The initiator of succession proceedings shall notify when the successor became aware of his or her right of succession and whether the successor has accepted the succession.

(3) The initiator of succession proceedings shall provide information in the application for succession proceedings concerning the opening of the succession, the successors and potential recipients of compulsory portions, the wills and succession contracts and the bequeather's obligations known to the initiator of the proceedings.

(4) Before acceptance of an application for initiation of succession proceedings, the notary shall verify whether succession proceedings have been initiated in the same succession matter on the basis of information entered in the succession register.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(4¹) The notary shall make an entry concerning the initiation of succession proceedings in the succession register immediately after the acceptance of the application for initiation of succession proceedings.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(5) Succession proceedings shall be conducted by a notary who is entered in the succession register as the person conducting the succession proceedings. If, according to the succession register, succession proceedings have been initiated by an application submitted to another notary, the notary who accepted an application later shall forward it to the notary conducting the succession proceedings.

[RT I, 09.10.2013, 1 - entry into force 19.10.2013]

§ 167. Conduct of succession proceedings

(1) A notary shall verify information concerning the wills and succession contracts of the bequeather on the basis of information entered in the succession register and, if the specified documents are not in the archives of the succession register, send a notice concerning the opening of the succession to the depositaries of the specified documents on the basis of this information and shall request to send the documents to him or her.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(1¹) For initiation of succession proceedings on the basis of an application of an entitled person or in the case of justified need, the notary shall make an inquiry to the corresponding register of a foreign state in order to obtain information concerning the will and succession contract of the bequeather.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(2) A notary shall make inquiries concerning the rights and obligations of the bequeather to the registers the list of which shall be established by a regulation of the minister responsible for the area.

(3) A notary shall submit an electronic inquiry concerning the rights and obligations of the bequeather to credit institutions operating in the Republic of Estonia the list of which shall be established by a regulation of the minister responsible for the area. A credit institution who has obtained an inquiry and has information concerning the rights and obligations of the bequeather is required to submit the information to a notary by electronic means without charge within ten working days after the receipt of the inquiry.

[RT I, 09.10.2013, 1 - entry into force 19.10.2013]

(4) In addition to the provisions of subsections (2) and (3) of this section, a notary may make inquiries also to other persons on the basis of a notarially authenticated application of the initiator of the succession proceedings or any other person who has rights in respect of the estate.

(4¹) If the bequeather was married at the time of opening of the succession and the type of proprietary relation of spouses was joint property, a notary shall also submit inquiries provided for in subsections (2)–(4) of this section concerning the rights and obligations of the bequeather's surviving spouse.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(5) For verification of the correctness of a will signed in presence of witnesses a notary has the right to hear the witnesses specified in § 23 of this Act.

§ 168. Notice concerning initiation of succession proceedings

(1) A notary shall publish a notice concerning the initiation of succession proceedings in the official publication *Ametlikud Teadaanded* not later than two working days after initiation of the succession proceedings.

(2) The notary shall send the successors known to the notary a notice concerning the initiation of succession proceedings. The notary shall inform also other persons to whom rights have been granted and duties have been imposed by the will or succession contract.

(3) In case of succession pursuant to the testamentary disposition of the bequeather the notary shall also inform the persons who would have succeeded in the case of intestate succession. If such a person or his or her residence is unknown, the provisions of § 169 of this Act shall apply.

(4) The list of information contained in the notices specified in subsections (1)–(3) of this section shall be established by a regulation of the minister responsible for the area.

[RT I, 09.10.2013, 1 - entry into force 19.10.2013]

(5) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 169. Calling proceedings for identification of successor

(1) If a successor is not known or there is no reliable information concerning the place of residence of the successor, the notary shall conduct calling proceedings for identification of the successor.

(2) A notary shall publish a call for identification of a successor in the official publication *Ametlikud Teadaanded*. A notary may publish the call additionally in another publication.

(3) If a notary has not published a notice concerning the initiation of succession proceedings before conducting the calling proceedings for identification of the successor, the notary shall publish the call together with the notice concerning the initiation of succession proceedings.

(4) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(5) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 170. Disclosure of information during succession proceedings

(1) A person entitled to initiate succession proceedings has the right to receive information from the notary during the succession proceedings concerning the fact who has accepted the succession and who has renounced the succession. A person who would have succeeded in the case of intestate succession has the same right in the case of succession on the basis of testamentary intention.

(2) The persons specified in subsection (1) of this section have the right to examine also the results of the inquiries provided for in § 167 of this Act.

(3) In the case of succession on the basis of testamentary intention, a person who would have succeeded in the case of intestate succession has the right to examine the will and the succession contract. The specified person has such a right also after the authentication of the succession certificate.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 171. Succession certificate

(1) A notary shall authenticate a succession certificate if sufficient proof is provided concerning the right of succession of a successor and the extent thereof but not before one month after publication of the notice specified in subsection 168 (1) of this section.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(1¹) A notary shall authenticate a European Certificate of Succession pursuant to Regulation (EU) No 650/2012 of the European Parliament and of the Council.
[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(2) In case of several successors the notary shall indicate each successor's share of the estate in the succession certificate.

(3) If a succession certificate is authenticated concerning a provisional successor, it shall be indicated in the succession certificate that the successor is a provisional successor and the certificate shall set out a subsequent successor and the conditions under which the estate shall transfer to the subsequent successor. In the cases specified in § 54 of this Act it shall be indicated in the succession certificate that the provisional successor is exempt from restrictions upon the disposal of the estate and is entitled to use the estate freely.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(4) If a testator appoints an executor of the will, the notary shall indicate the name and personal identification code of the executor of the will in the succession certificate.

(5) If a bequeather was married at the time of opening of the succession, a notary shall indicate the given name and surname and personal identification code of the bequeather's surviving spouse, the date of contraction of marriage and the type of valid proprietary relation of spouses in the succession certificate. If the marriage of the bequeather has been terminated before the opening of the succession but the joint property of the spouses has not been divided, a notary shall indicate these circumstances and the given name and surname and personal identification code of the person who was married to the bequeather, the dates of contraction and termination of marriage and the type of valid proprietary relation of spouses in the succession certificate.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(6) If, within a reasonable period of time after the publication of the call in the calling proceedings for identification the successor, no sufficient proof concerning the right of succession of a successor or the extent thereof is provided in order to authenticate the succession certificate, the notary shall authenticate the succession certificate indicating the information which has become known to the notary in the succession proceedings concerning the persons who have accepted the succession and, if possible, information concerning the persons who may be entitled to accept the succession.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(7) If the right of succession of a person is established by a court decision substituting for a succession certificate, all the information to be indicated in the succession certificate pursuant to law shall be indicated in the conclusion of the court decision.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 172. Certificate of legatee

(1) A notary shall authenticate a certificate concerning the claim arising from a legacy (hereinafter *certificate of legatee*) on the basis of a notarially authenticated application of the bequeather, the executor of the will or the legatee.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) The certificate of legatee shall set out the legatee and the object given as legacy.

§ 173. Certificate of recipient of compulsory portion

(1) A notary shall authenticate a certificate concerning the claim arising from a compulsory portion (hereinafter *certificate of recipient of compulsory portion*) on the basis of a notarially authenticated application of the successor, the executor of the will or the person entitled to a compulsory portion.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

(3) The certificate of recipient of compulsory portion shall set out the recipient and the size of the compulsory portion as a legal share of the estate.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(4) [Repealed - RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 174. Preparation of draft certificate

(1) A notary may prepare first the draft succession certificate, certificate of legatee, certificate of recipient of compulsory portion or certificate of executor of will and set a later term for authenticating the certificate.

(2) A notary shall authenticate a certificate according to the prior draft in the case specified in subsection (1) of this section if the notary does not receive a court ruling prohibiting the authentication of the certificate by the date of authentication of the certificate.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 175. Revocation of certificate

(1) If the incorrectness of a succession certificate, certificate of legatee, certificate of recipient of compulsory portion or certificate of executor of will becomes apparent after the authentication thereof, the notary shall revoke it on the basis of a notarially authenticated application of the interested person or on the notary's own initiative.

(2) The notary shall conduct new succession proceedings upon the revocation of a certificate. If an entry concerning the successor has been made in the land register on the basis of a revoked certificate and it may be presumed that correction of the entry is possible, the notary shall submit an application for entry of an objection in the land register.

(3) A claim to revoke a certificate shall be filed within three years after the basis of invalidity becomes or should become known, but not more than 30 years after the opening of the succession.

(4) If a notary refuses to revoke a certificate authenticated in the succession proceedings, the person who has legitimate interest may demand revocation of the certificate in court. An action for revocation of certificate shall be filed against the person who is an entitled person according to the certificate.

(5) On the basis of an application of the interested person, a notary or a court may restore the term specified in subsection (3) of this section. The provisions of the Code of Civil Procedure concerning restoration of procedural terms apply to restoration.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

Chapter 7 SUCCESSION REGISTER

§ 176. Maintenance of succession register

(1) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(2) The succession register shall be maintained by the Chamber of Notaries (hereinafter *registrar*).

[RT I, 09.10.2013, 1 - entry into force 01.01.2015]

(2¹) The succession register is an electronic database the purpose of which is to facilitate the correct conduct of succession proceedings and ensure protection of the rights of successors and bequeathers and enable electronic preservation and forwarding of documents and information, and public notification.
[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(2²) The controller of the succession register is the Ministry of Justice and the processors are notaries, consular officers with special qualification and courts.
[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(3) The minister responsible for the area shall establish by a regulation the maintenance of the succession register, making of entries in the succession register and release of information from the succession register.
[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(4) The provisions of the Public Information Act concerning databases apply to the succession register and the maintenance thereof with the specifications provided for in this Act.
[RT I 2010, 38, 231 - entry into force 01.07.2010]

(5) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 176¹. Composition of succession register

(1) The succession register shall consist of information entered in the register and archives. Information entered in the succession register is informative.
[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(2) Information concerning wills, succession contracts, estate management measures, succession proceedings, succession certificates, European Certificates of Succession and disposal of a share of the community of an estate and persons performing procedural acts, successors and bequeathers, including other information concerning conduct and transfer of succession proceedings and suspension, continuation and termination of succession proceedings conducted on the basis of Regulation (EU) No 650/2012 of the European Parliament and of the Council is entered in the succession register.
[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(3) Digital transcripts of wills, except domestic wills, and succession contracts are stored in the archives of the succession register. A digital transcript of the original of a will or succession contract is deemed to be equal to the original unless a notation has been entered in the succession register indicating that the digital transcript was made of a transcript of the will or succession contract.
[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 176². Information to be entered in succession register

[Repealed - RT I, 10.03.2016, 2 - entry into force 20.03.2016]

§ 176³. Retention period of information entered in succession register

(1) Information concerning wills and succession contracts shall be preserved permanently.

(2) Information concerning the application and amendment of measures for management of an estate shall be preserved for thirty years as of the making of the entry in the succession register.

(3) Information concerning the authentication of a succession certificate and disposal of a share of the community of an estate shall be preserved for thirty years as of the making of the entry in the succession register.
[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 177. Basis for entry in succession register

[Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 177¹. Entries in succession register

(1) Entries in the succession register related to notarial acts shall be made by notaries.

(2) Entries in the succession register may also be made by courts or consular officers.

(3) A testator or a person with whom the testator has deposited his or her will may notify of making the domestic will and alteration and revocation thereof:

- 1) through the relevant web service or
- 2) by submitting a corresponding notice to the registrar.

(4) An entry in the succession register shall be made by the registrar in the case specified in clause (3) 2) of this section and in a situation where there is no other competent authority to make the entry.

[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(5) A fee of five euros shall be paid for the making of an entry specified in subsection (4) of this section.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 178. Maintaining confidentiality of information

The confidentiality of information entered in the register concerning wills and succession contracts is maintained until the opening of a succession.

§ 179. Provision of information from succession register

(1) Everyone can access the information in the succession register after the death of the bequeather is certified. Information concerning a reciprocal will of spouses is provided after the death of one spouse.

[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(2) In order to access the information entered in the succession register, knowledge of the given name and surname and personal identification code of the bequeather is sufficient.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(2¹) Information entered in the succession register can be accessed at notaries' offices or on the relevant website.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(2²) The registrar shall respond to inquiries from the register of wills of a foreign state, inquiries by the competent authority of a foreign state on the basis of Article 66(5) of Regulation (EU) No 650/2012 of the European Parliament and of the Council and other inquiries in the case of which a legal basis for obtaining the information exists but there is no competent authority to release the information.

[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

(2³) A notary fee is paid in accordance with the Notary Fees Act upon accessing information contained in the succession register at notaries' offices.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(2⁴) Information entered in the succession register shall be disclosed in an up-to-date version and in such a manner and format that the information obtained as a single inquiry can be downloaded in electronically processable form. Automatic inquiries shall be available only for the performance of public law functions arising from law.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(3) At the request of a person, a notary shall certify a printout of information in the succession register.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(4) [Repealed - RT I, 09.10.2013, 1 - entry into force 28.10.2013]

(5) In the case specified in subsection (22) of this section, the registrar of the register of wills of a foreign state shall pay a fee of three euros to the registrar for responding to an inquiry.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

Chapter 8 IMPLEMENTING PROVISIONS

§ 180. Application of Law of Succession Act

Law in force at the time of opening of a succession applies to succession unless the implementing provisions provide otherwise. The scope of law applicable to succession shall be determined by § 26 of the Private International Law Act.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 181. Will

(1) A will or succession contract is valid if it is made in accordance with the law in force at the time of making the will or entry into the succession contract.

(2) For interpretation of the text of a will made before 1 January 2009, the provisions of §§ 28-34 of this Act apply.

§ 182. Legacy

If a succession is opened before 1 January 2009 and a legacy is executed after 1 January 2009, the provisions of §§ 67-69 of this Act apply upon execution of the legacy.

§ 183. Order of performance of obligations

If a succession is opened before 1 January 2009 and an obligation is performed out of the estate after 1 January 2009, the provisions of this Act apply upon determining the order of performance of obligations.

§ 184. Legal relations of co-successors

If a succession is opened before 1 January 2009 and the rights of co-successors are exercised, their obligations are performed or the estate is divided after 1 January 2009, the provisions of §§ 147–157 and 159–161 of this Act apply.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

§ 184¹. Maintenance of succession register

(1) Until 1 January 2015, the succession register shall be maintained by Harju County Court.

(2) As of 1 September 2013 until the transfer of the maintenance of the succession register to the Chamber of Notaries, notaries, courts and consular officers may, instead of making an entry in the succession register, submit a corresponding statement to Harju County Court.

(3) Until transfer of the maintenance of the succession register to the Chamber of Notaries, the information entered in the succession register can be accessed in the succession register of Harju County Court.

[RT I, 09.10.2013, 1 - entry into force 28.10.2013]

§ 185.–§ 189.[Omitted from this text.]

§ 190. Entry into force of Act

This Act enters into force on 1 January 2009.