

**ACT**  
**of the Czech Republic**  
**No. 40/1964 Sb.**  
**Civil Code**

as amended by Acts No. 58/1969 Sb., No. 131/1982 Sb., No. 94/1988 Sb., No. 188/1988 Sb., No. 87/1990 Sb., No. 105/1990 Sb., No. 116/1990 Sb., No. 87/1991 Sb., No. 509/1991 Sb., (consolidated text published in No. 47/1992 Sb.), No. 264/1992 Sb., No. 267/1994 Sb., No. 104/1995 Sb., No. 118/1995 Sb., No. 89/1996 Sb., No. 94/1996 Sb., No. 227/1997 Sb., No. 91/1998 Sb., No. 165/1998 Sb., No. 159/1999 Sb., No. 363/1999 Sb., No. 27/2000 Sb., No. 103/2000 Sb., No. 227/2000 Sb., No. 367/2000 Sb., No. 229/2001 Sb., No. 317/2001 Sb. and No. 501/2001 Sb.

The Federal Assembly of the Czech and Slovak Federal Republic has adopted the Act as follows:

**PART ONE**  
**GENERAL PROVISIONS**

CHAPTER ONE  
CIVIL LEGAL RELATIONSHIPS AND THEIR PROTECTION  
§ 1

(1) Regulation of civil legal relationships shall contribute to realisation of civil rights and freedoms, in particular to protection of personhood and inviolability of ownership.

(2) The Civil Code regulates property relationships of individuals and legal entities, property relationships between these persons and the state as well as relationships following from right to protection of persons unless these relationships are regulated by special acts.<sup>1)</sup>

(3) Legal relationships following from results of intellectual creative activity shall be regulated by special acts.

-----  
<sup>1)</sup> Such as § 261 para. 2 of the Commercial Code.

§ 2

(1) Civil legal relationships shall arise from legal acts or from other facts resulting in the rise of these relationships according to an act.

(2) Participants of civil legal relationships shall have an equal position in these relationships.

(3) The participants of civil legal relationships may regulate their mutual rights and duties by an agreement deviating from the act unless it is explicitly prohibited by an act or unless the impossibility of such difference follows from the nature of the relevant provision of the act.

§ 3

(1) Exercise of rights and duties following from civil legal relationships must not groundlessly infringe rights and lawful interests of others and must not be at variance with good manners.

(2) Individuals and legal entities, state authorities and authorities of territorial self-governance shall see to it that rights from civil legal relationships are neither jeopardised nor

violated and that eventual disputes between the participants are removed above all by an agreement.

§ 4

Everyone whose right was jeopardised or infringed may assert its protection with the relevant authority of state administration. Unless an act stipulates otherwise, the competence to such protection shall fall within the jurisdiction of courts.

§ 5

Should an obvious infringement of a quiet state of affairs have occurred, the protection may be asserted with the relevant authority of state administration. This authority may provisionally prohibit the infringement or command that the previous state of affairs be restored. The rights to assert the protection with a court shall not be hereby affected.

§ 6

Should an unlawful infringement of a right immediately threaten, the infringed person itself may avert the infringement in an adequate way.

CHAPTER TWO  
PARTICIPANTS OF CIVIL LEGAL RELATIONSHIPS

Title one  
Individuals  
§ 7

(1) The capacity of an individual to have rights and duties shall arise at the moment of his or her birth. Also a conceived child shall have this capacity if it is born alive.

(2) This capacity shall expire at the moment of death. Unless the death can be proved in the stipulated way, the court shall declare the individual dead if the death can be found out otherwise. This rule shall apply also to an individual whose death can be presumed with respect to all circumstances.

§ 8

(1) A full capacity of an individual to acquire rights and assume duties on the basis of the own legal acts (capacity to legal acts) shall arise at the moment of his or her majority. (2) The majority shall be acquired by achieving the age of eighteen years. Before achieving this age, the majority can be acquired only by entering into a marriage. The majority acquired in this way can not be lost even if the marriage becomes extinct or if it is declared invalid by a court.

§ 9

Minors shall be capable only to such legal acts that are adequate to the maturity of their reason and will with regard to their age.

§ 10

(1) If an individual is completely unable to do legal acts due to a permanent mental illness, the court shall deprive him or her of the capacity to legal acts.

(2) If an individual is able to do only certain legal acts due to a permanent mental illness or to an immoderate consumption of alcoholic beverages, the court shall restrict his or her capacity to legal acts and shall specify the extent of such restriction in the decision.

(3) The court shall change or cancel the deprivation or restriction of the capacity to legal acts if reasons leading thereto changed or fell out.

### **Protection of personhood**

#### § 11

An individual shall have the right to protection of his or her personhood, in particular of his or her life and health, civic honour and human dignity as well as of its privacy, name and expressions of personal nature.

#### § 12

(1) Documents of personal nature, portraits, pictures and image and sound records concerning an individual or expressions of his personal nature may be taken or used only with his or her consent.

(2) The consent shall not be required if the documents of personal nature, portraits, pictures and image and sound records are to be used for official purposes on the basis of an act.

(3) Portraits, pictures and image and sound records may be taken or used without the consent of the individual adequately also for purposes of science or art and for the purposes of press, motion picture, radio and television news service. However, such use must not be at variance with lawful interests of the individual.

#### § 13

(1) The individual shall be entitled in particular to demand that unlawful violation of his or her personhood be abandoned, that consequences of this violation be removed and that an adequate satisfaction be given to him or her.

(2) If the satisfaction under paragraph 1 appears insufficient due to the fact that the individual's dignity or honour has been considerably reduced, the individual shall also have a right to a pecuniary satisfaction of the immaterial detriment.

(3) The amount of the satisfaction under paragraph 2 shall be specified by the court with regard to intensity and circumstances of the arisen infringement.

#### § 14

repealed

#### § 15

After the death of the individual, the right to protection of his or her personhood may be asserted by his or her spouse or children or, if there are no spouse or children, to his or her parents.

#### § 16

A person who causes damages by unlawfully violating the right to protection of personhood shall be liable for these damages according to the provisions of this Act concerning liability for damages.

§ 17  
repealed

Title two  
Legal entities  
§ 18

(1) Also legal entities shall have capacity to have rights and duties.

(2) The following entities shall be considered legal entities:

- a) associations of individuals or legal entities;
- b) purpose-made associations of property;
- c) territorial self-governing units;
- d) other entities defined as legal entities by an act.

§ 19

(1) Establishment of a legal entity shall require a written agreement or a foundation deed unless a special act stipulates otherwise.

(2) Legal entities shall arise on the day to that they are registered with the Commercial Registry or with another specified by an act unless a special act regulates their rise otherwise.

§ 19a

(1) Capacity of a legal entity to acquire rights and duties may be restricted only by an act.

(2) Legal entities registered with the Commercial Registry or with another registry specified by an act may acquire rights and duties from the day of effectivity of the registration unless a special act stipulates otherwise.

§ 19b

(1) Legal entities shall have their name; the name must be specified at the moment of their establishment.

(2) Should the name of a legal entity be used unlawfully, the legal entity may demand with a court that the unlawful user omits the use and remove irregular state; the legal entity may also demand an adequate satisfaction that may be required even in money.

(3) The provision of paragraph 2 shall adequately apply to an unlawful infringement of goodwill of a legal entity.

§ 19c

(1) The seat of a legal entity must be specified at the moment of the rise thereof.

(2) The seat must be specified by an address where the legal entity is really settled, i.e. by the place where the management of the legal entity is situated and where the legal entity can be contacted by the public.

(3) Where a legal entity refers to a seat being different from the real seat thereof, everyone may rely even on the real seat thereof.

(4) The seat of a legal entity may be located in a flat only provided that it is compatible with the purpose of the legal entity and that it corresponds to the nature and extent of the activities thereof.

(5) In case of a legal entity registered with the Commercial Register or with another public register, it shall be sufficient if the constitutive document specifies instead of the address of the seat only the municipality where the seat is located. However, in asking for registration with this register, the legal entity must specify the full address of the seat thereof.

#### § 20

(1) The legal entity shall act in all matters through persons entitled thereto on the basis of the agreement on establishment of the legal entity, of a foundation deed or on the basis of an act (statutory bodies).

(2) Legal acts for the legal entity may be also done by its employees or members if it is stipulated by internal regulations of the legal entity or if it is usual with regard to their work assignment. If these persons exceed their competence, the legal entity shall be entitled or obliged only if the legal act falls within the scope of activity of the legal entity and if the other party could not have known of the excess of the competence.

#### § 20a

(1) A legal entity shall be wound-up by an agreement, after the lapse of the time period or at the moment of fulfilment of the purpose for that it was established unless a special act stipulates otherwise.

(2) A legal entity registered with the Commercial Registry or with another registry specified by an act shall be dissolved on the day of its deletion from this registry unless special acts stipulate otherwise.

(3) Prior to the dissolution of the legal entity, it shall be necessary to carry out its liquidation unless all its property passes to the legal successor or unless a special act stipulates otherwise.

(4) Provisions of the Commercial Code concerning liquidation of business companies shall adequately apply also to liquidation of other legal entities unless anything else follows from the provisions regulating these legal entities.

#### § 20b to 20e left out

### **Professional associations of legal entities**

#### § 20f

For the purpose of protection of their interests or for other purpose, legal entities may create professional associations of legal entities (hereinafter the "associations").

#### § 20g

Foundation of the association shall require a written foundation agreement concluded by the founders or an approval of the foundation on a constituent meeting of its members. Foundation of the association on this meeting shall be recorded in the form of minutes containing a list of the founding members of the association with their names (registered names) and residence (registered office) and signatures of the members. The agreement or the

minutes from the constituent membership meeting must include by-laws of the association and specification of persons entitled to act for the association, approved of by the founders or by the constituent meeting.

#### § 20h

(1) The by-laws of the association shall specify the name, seat and scope of activities of the association, regulation of property issues, rise and extinction of membership, rights and duties of its members, bodies of the association and definition of their competence, the way the association shall be wound up and the way its liquidation excess shall be disposed of. The membership in the association may be linked to a membership contribution.

(2) The by-laws of the association shall be approved of by the founders or by the constituent membership meeting. The by-laws shall determine the way of their amendment.

#### § 20i

(1) The association shall be a legal entity that shall be liable for non-fulfilment of its duties by all its property.

(2) The association shall acquire legal capacity at the moment of its registration with the registry of associations maintained by the district office<sup>2)</sup> competent according to the seat of the association. The registration shall include the name and seat of the association, scope of its activities, the bodies acting for the association and names of the persons executing their competence.

(3) The application for registration with the registry shall include the foundation agreement or the minutes from the constituent membership meeting together with the by-laws.

-----  
<sup>1)</sup> § 1 of the Act of the Czech National Council No. 425/1990 Sb., on district offices, regulation of their competence and on certain other measures related thereto, as amended by the Act No. 321/1992 Sb.

§ 1 of the Act of the Slovak National Council No. 427/1990 Sb., on organization of local administration.

#### § 20j

(1) Prior to dissolution of the association, it shall be necessary to carry out its liquidation unless all its assets pass to a legal successor.

(2) The association shall be dissolved at the moment of its deletion from the registration.

#### § 21

If the state takes part in civil legal relationships, it shall be considered a legal entity.

### CHAPTER THREE REPRESENTATION

#### § 22

(1) A representative shall be defined as a person who is entitled to act for someone else in his name. Rights and duties shall arise directly to the represented person.

(2) Nobody can be represented by a person who is not capable to the act that is concerned or by a person whose interests are at variance with the interests of the represented person.

#### § 23

The representation shall arise on the basis of an act or of a decision of a state authority (hereinafter the "legal representation") or on the basis of an agreement on a power of attorney.

§ 24

The representative must act in person; he can have himself represented by a substitute only if it is allowed by a legal regulation or agreed by the participants. Even the substitute's legal acts shall establish rights and duties directly to the represented person.

§ 25  
repealed

**Legal representation**

§ 26

If individuals are not capable to legal acts, they shall be represented by their legal representatives.

§ 27

(1) The Family Act shall stipulate who is a legal representative of a minor.

(2) An individual who was deprived of his or her capacity to legal acts by a decision of the court or whose capacity to legal acts was restricted by a decision of the court shall be legally represented by a curator appointed by the court.

(3) Unless a relative of the individual or other person meeting the requirements therefor can be appointed as a curator of the individual, the court shall appoint as the curator an authority of local administration eventually its institute that is entitled to act in its own name (§ 18 para. 1).

§ 28

If the legal representatives are also obliged to manage the property of the represented persons, a disposition of this property, except for usual affairs, shall require an approval of court.

§ 29

The court may appoint a curator also to a person of unknown residence if it is necessary for protection of his or her rights or if it is required by a public interest. Under the same conditions, the court may appoint a curator also for other serious reasons.

§ 30

If interests of the legal representative become at variance with the interests of the represented person or if interests of more persons represented by one legal representative become at variance with one another, the court shall appoint a special representative.

**Representation on the basis of a power of attorney**

§ 31

(1) In doing a legal act, a person may have itself represented by an individual or by a legal entity. For this purpose, the empowering person shall grant the attorney a power of attorney that must specify the scope of the attorney's powers.

(2) If the power of attorney is granted to a legal entity, the right to act for the empowering person shall be exercised by the statutory body of the legal entity or by a person granted a power of attorney by this body.

(3) The power of attorney may be granted even to more attorneys together. Unless the power of attorney granted to more attorneys stipulates otherwise, all the attorneys must act jointly.

(4) If a legal act must be done in writing, also the power of attorney must be granted in writing. The power of attorney must be granted in writing also unless it concerns only one certain legal act.

## § 32

(1) Unless it follows from the legal act that somebody acts for somebody else, the acting person shall be considered to act in its own name.

(2) If the attorney acts for the empowering person within the scope of its powers, the rights and duties shall arise directly to the empowering person. Instructions given to the attorney that do not follow from the power of attorney shall have no influence on the effects of the act unless the third party knew about these instructions.

(3) If the empowering person is in good faith or if it knew or must have known about certain circumstance, the same shall apply also to the attorney unless the matter are circumstances the attorney learnt before he was granted the power of attorney. An empowering person who was not in good faith may not appeal to the attorney's good faith.

## § 33

(1) If the attorney trespassed his powers following from the power of attorney, the empowering person shall be bound only if he has approved this trespass. However, unless the empowering person informed the third party of his its disagree without undue delay after he learnt of the trespass, the empowering person shall be considered to have approved the trespass.

(2) If the attorney trespassed his powers to act for the empowering person or if someone acted for someone else without a power of attorney, the acting person itself shall be bound from the act unless the person for whom the act was done approves it subsequently without undue delay. Unless the empowering person approves the trespass of the power of attorney or of the act without a power of attorney, the third party may ask the acting person either for performance of the obligation or for compensation of damage caused by his act.

(3) The provision of paragraph 2 shall not apply if the third party knew about the lack of a power of attorney.

## § 33a

(1) The attorney may grant a power of attorney to other person so that he acts instead of him for the empowering person if

- a) the power of attorney explicitly entitles him to grant a substitute power of attorney to other person; or
- b) the attorney is a legal entity.

(2) Legal acts of the substitute attorney shall bind directly the empowering person.



§ 33b

(1) The power of attorney shall become extinct  
a) after the legal act to that it was restricted was done; or  
b) if it is recalled by the empowering person; or  
c) if it is terminated by the attorney;  
d) if the attorney dies.

(2) The power of attorney shall become extinct at the moment of death of the empowering person unless anything else follows from its content. If the empowering or empowered legal entity is dissolved, the power of attorney shall become extinct only if its rights and obligations do not pass to other person.

(3) The empowering person may not validly waive its right to recall the power of attorney at any time.

(4) Before the attorney learns of the fact that the power of attorney was recalled, its legal acts shall have the same effects as if the power of attorney still existed. However, this provision can not be appealed by a person who knew or must have known of recall of the power of attorney.

(5) If the empowering person informed other person that he granted the attorney a power of attorney to certain acts, the empowering person may appeal vis-à-vis this person to the recall of the power of attorney only if he informed this person of the recall before the attorney did the legal act or if this person knew of the recall at the moment when the attorney did the legal act.

(6) If the empowering person dies or if the attorney terminates the power of attorney, the attorney must take all steps that are urgent so that the empowering person or its legal successor does not suffer from a detriment of his rights. Legal acts done in this way shall have the same effects as if the representation still existed unless they are contrary to what the empowering person or its legal successors arranged for.

CHAPTER FOUR  
LEGAL ACTS

§ 34

Legal act shall be defined as an expression of will directed in particular to rise, change or extinction of rights or duties connected with such expression by legal regulations.

§ 35

(1) The expression of will may be done by acting or omitting; it may be done explicitly or in other way that does not throw doubts on what the participant wanted to express.

(2) Legal acts expressed in words shall be interpreted not only according to their language expression but in particular also according to the will of the person who did the legal act unless this will is at variance with the language expression.

(3) Legal acts expressed otherwise than in words shall be interpreted according to what the way of their expression usually means. In the course of this interpretation, it shall be necessary to take account of the will of the acting person and to protect good faith of the person to whom the act was addressed.

§ 36

(1) Rise, change and extinction of a right or duty may be linked to fulfilment of a condition. An impossible condition to that extinction a right or obligation is linked shall not be taken into consideration.

(2) A suspensive condition shall be defined as a condition to whose fulfilment rise of legal effects of the act are linked. A resolutive condition shall be defined as a condition to whose fulfilment extinction of effects that have already arisen are linked.

(3) If fulfilment of the condition is intentionally frustrated by a participant benefiting from the non-fulfilment of the condition, the legal act shall cease to be linked to a condition.

(4) If fulfilment of a condition is intentionally caused by a participant who was not entitled to do so and who benefits from the fulfilment of the condition, the fulfilment of the condition shall not be taken into consideration.

(5) Unless anything else follows from the legal act or from its nature, the condition shall be presumed suspensive.

### § 37

(1) The legal act must be done in a free way, seriously, definitely and intelligibly; otherwise, it shall be invalid.

(2) A legal act concerning an impossible performance shall be invalid.

(3) Mistakes in writing or calculations shall make the act invalid if its meaning is doubtful.

### § 38

(1) A legal act done by a person incapable to legal acts shall be invalid.

(2) Also a legal act of a person acting in a mental disorder disabling him or her to do such legal act shall be invalid.

### § 39

A legal act whose content or purpose are at variance with an act, circumvent the act or are at variance with good manners shall be invalid.

### § 40

(1) Unless the legal act was done in a form required by an act or by an agreement of the participants shall be invalid.

(2) A written agreement may be changed or cancelled only in writing.

(3) A written legal act shall be valid if it is signed by the acting person; if the legal act is done by more persons, their signatures shall not have to be on the same document unless a special regulation stipulates otherwise. If it is usual, the signature may be replaced with mechanic means. If the legal act is done by electronic means, it may be signed in an electronic way according to special regulations.

(4) The written form shall be kept if the legal act is done by telegraph, teleprinter or electronic means that allow picking up of its content and determining of the acting person.

(5) Written legal acts done by persons who are not able to read or write shall require an official record. The official record shall not be required if the person unable to read or write can learn the content of the legal act by means of apparatuses or special tools or through the mediation of another person he chooses and if he is bale to sign the document by his own hand.

#### § 40a

If invalidity of a legal act is based on reasons mentioned in § 49a, § 55, § 140, § 145 para. 2, § 479, § 589, § 701 para. 1, § 775 and § 852b para. 2 and 3, the legal act shall be considered valid unless the affected person appeals to the invalidity of the act. The invalidity can not be appealed to by the person who caused it on its own. The same rule shall apply unless the legal act was done in the form required by the agreement of participants (§ 40). If the legal act is at variance with a generally binding regulation on prices, it shall be invalid only in the extent of this variance if the affected person appeals to the invalidity.

#### § 41

If the reason for invalidity is related only to a part of the legal act, only this part shall be invalid unless it follows from the nature of the legal act or from its content or from circumstances under that the act was done that this part can not be separated from the other content.

#### § 41a

(1) If an invalid legal act has essentials of another act that is valid, this act may be appealed to if it obviously follows from the circumstances that it expresses the will of the acting person.

(2) If a legal act is to cover up another legal act, this other legal act shall be valid if it corresponds to the will of participants and all its requisites are met. The invalidity of such legal act can not be appealed to vis-à-vis a participant who considered it not to be covered up.

#### § 42

If damages arise due to invalidity of a legal act, the liability for that damage shall be regulated by the provisions of this Act on liability for damage.

#### § 42a

##### **Contest**

(1) A creditor may demand that the court decide that the debtor's legal acts curtailing satisfaction of its enforceable claim are ineffective vis-à-vis him. The creditor shall be entitled to demand such decision even if the claim against the debtor from its contestible act has become enforceable or has been satisfied.

(2) The creditor may contest the debtor's legal acts done during the last three years on purpose of curtailing his creditors if the other party must have known of this purpose as well as the debtor's legal acts curtailing his creditors and done between the debtor and its close persons (§ 116, 117) during the last three years or done by the debtor to the benefit of these persons during the aforesaid period except if the other party was not able to learn the debtor's intention to curtail the creditors at that time even with a due care.

(3) The contest can be exercised against the person to whose benefit the legal act was done or who benefited from the debtor's contestible legal act.

(4) A legal act successfully contested by the creditor shall be ineffective vis-à-vis him in the manner that the creditor may demand satisfaction of his claim from what passed from the debtor's property; unless it is well possible, the creditor shall have a right to a compensation against the person who benefited from this act.

## **Agreements**

### **§ 43**

In the course of regulation of mutual contractual relationships, the participants must see to it that everything that could result in rise of disputes is removed.

### **Offer to conclude an agreement**

#### **§ 43a**

(1) Expression of a will aimed to conclusion of an agreement and addressed to one or more certain persons shall be considered offer to conclude an agreement (hereinafter the "offer") if it is sufficiently definite and if the offering person expresses therein its will to be bound in case of its acceptance.

(2) The offer shall be effective as soon as it is delivered to the addressee. The offering person may cancel even an irrevocable offer if expression of the cancellation is delivered to the addressee prior to or at least at the same time with the offer.

(3) If the agreement has not yet been concluded, the offer may be revoked if the revocation is delivered to the addressee before the addressee sends acceptance of the offer.

(4) The offer can not be revoked

- a) during a time period stipulated therein for its acceptance unless the a right to revoke it even before the lapse of this period follows from its content of the offer; or
- b) if its irrevocability is explicitly expressed in the offer.

#### **§ 43b**

(1) Even an irrevocable offer shall expire

- a) after the lapse of the time period stipulated therein for its acceptance; or
- b) after the lapse of an adequate time period with regard to the nature of the offered agreement and to the speed of means used by the offering person for sending the offer; or
- c) at the moment when expression of rejection of the offer was delivered to the offering person.

(2) An oral offer shall expire unless it was immediately accepted if nothing else follows from its content.

(3) The period for acceptance specified by the offering person in a telegram offer shall start running from the moment when the telegram was posted; the period specified in a letter shall start running from the date mentioned therein and unless the date is mentioned in the letter, from the date written on the envelope. The period for acceptance specified by the offering person by phone, teleprinter or other means making an immediate communication possible shall start running from the moment when the offer is delivered to the addressee.

### **Acceptation of the offer**

#### **§ 43c**

(1) A timely declaration of the addressee or his other timely conduct from that his consent can be derived shall be considered acceptance of the offer.

(2) The timely acceptance of the offer shall become effective from the moment when expression of the consent to the content of the offer is delivered to the offering person. The acceptance may be revoked if the revocation is delivered to the offering person no later than at the same time with the acceptance.

(3) A delayed acceptance shall have effects of a timely one if the offering person informs the addressee of this fact without undue delay either orally or by sending a written report.

(4) If it follows from the letter or from another written document expressing the acceptance of the offer that they were sent under such circumstances that they would have been delivered to the offering person timely if their service had taken place in a usual way, the delayed acceptance shall have effects of a timely one unless the offering person orally notifies the addressee without undue delay that he considers the offer expired or unless he sends the addressee a report in this sense.

#### § 44

(1) The agreement shall be concluded at the moment when the acceptance of the offer becomes effective. Silence or inactivity shall not be considered acceptance of the offer.

(2) An acceptance that contains amendments, reservations, restrictions or other changes shall be considered rejection of the offer and shall be considered a new offer. However, the offer shall be considered accepted if the addressee's answer defines the content of the offered agreement in another words unless a change of the content of the offered agreement follows from the answer.

(3) If the offer was addressed to two or more persons and it follows from its content that the offering person intends all the addressees to be parties to the agreement, the agreement shall be concluded if all these persons accept the offer.

#### § 45

(1) Expression of a will shall be effective vis-à-vis an absent person from the moment when it is delivered to this person.

(2) If an expression of will is delivered changed due to means used by the offering person or due to other circumstances arisen in the course of transport, such expression of will shall be considered according to the provision on error (§ 49a).

#### § 46

(1) Agreements on transfer of real estate property must be concluded in writing; other agreements must be concluded in writing if an act or agreement of the participants require so.

(2) The obligatory written form of an agreement shall be considered kept if a written offer is accepted in writing. As for an agreement on transfer of real estate property, the expressions of the participants must be on the same document.

#### § 47

(1) If an act stipulates that an agreement requires a decision of the relevant authority, the agreement shall be effective by this decision.

(2) Unless an application for the decision according to paragraph 1 was filed within three years after the conclusion of the agreement, the participants shall be presumed to have withdrawn from the agreement.

#### § 48

(1) The participant may withdraw from the agreement in cases stipulated in this Act or agreed by the participants.

(2) Withdrawal from the agreement shall result in cancellation of the agreement ex tunc unless an act or an agreement of the participants stipulate otherwise.

#### § 49

The participant who concluded an agreement in pressure under strikingly disadvantageous conditions shall be entitled to withdraw from the agreement.

#### § 49a

A legal act shall be invalid if the acting person did it in an error arising from a circumstance decisive for the its realisation and if the addressee of such act evoked this error or must have known thereof. The legal act shall also be invalid if the error was evoked by this person intentionally. Error in motive shall not make the legal act invalid.

#### § 50

(1) The participants may also conclude an agreement in favour of a third person.

(2) Unless this Act or agreement between the participants stipulate otherwise, the third person shall be entitled from the agreement from the moment when he expresses his consent to the agreement. The debtor shall be entitled to raise the same objections against this person that he can raise against the person with whom he entered into the agreement. If the third person waives his right, the debt shall be discharged unless the agreement stipulates that in such case, the debt is to be performed to the person with whom the debtor concluded the agreement.

(3) Until the third person expresses its consent, the agreement shall be valid only between those who concluded it; the right to the performance shall belong to the participant who reserved the performance in favour of the third person unless anything else was agreed. The same rule shall apply if the third person denied the consent.

#### § 50a

(1) The participants may undertake in writing that they shall conclude an agreement within the agreed period of time; however, they must agree on essentials of the agreement.

(2) Unless the agreement is concluded within the agreed period of time, it shall be possible to demand with a court within one year that the expression of the will be replaced with a judicial decision. Right to compensation for damage shall not be affected by this rule.

(3) This obligation shall be discharged if circumstances from that the participants followed at the moment of rise of the obligation have changed so extensively that it can not be justly demanded that the agreement be concluded.

#### § 50b

The provision of § 50a shall adequately apply also to agreements stipulating that their content shall be completed if the participants explicitly expressed their will that the agreement is to be valid even if it comes to no agreement on the rest of the content of the agreement.

#### § 51

The participants may conclude also an agreement that is not explicitly regulated; however, the agreement must not be at variance with the content or purpose of this Act.

## CHAPTER FIVE CONSUMER AGREEMENTS

### § 52

(1) Consumer agreements shall be defined as purchase agreements, agreements for work eventually other agreements regulated by Part Eight of this Act, if they are concluded between a consumer on one side and a supplier on the other.

(2) The supplier shall be defined as a person who, in concluding and performing the agreement, acts in the framework of his trade or other business activity.

(3) The consumer shall be defined as a person who, in concluding and performing the agreement, does not act in the framework of his trade or other business activity.

### § 53

(1) The agreement may be concluded by means of distant communication devices that enable the parties to conclude the agreement without the necessity of a simultaneous physical attendance of the contracting parties. The distant communication devices shall be defined as means, except for a written contact, operated by a businessman whose scope of activities includes provision of one or more distant communication devices, particularly addressed or non-addressed papers, type letter, press advertisement with an blank order, catalogue, telephone with a (human) attendance, telephone without a (human) attendance (automatic call device, audiotext), radio, videotelephone (telephone with screen), videotext (computer and television screen), electronic mail, fax device, television (television purchase, teleshopping).

(2) Distant communication devices making an individual negotiation possible may be used only if the consumer did not refuse their use. Automatic telephone systems without a (human) attendance and fax devices may be used only with a prior explicit consent of the consumer.

(3) In case of use of distant communication devices, the offer must contain data necessary for conclusion of the agreement in the sense of general requisites of an agreement regulated in this part and of essential requisites of an agreement stipulated in Part Eight of this Act. These data must be given in a definite and understandable way with regard to the principles of good faith and to protection of persons, in particular of minors or consumers.

(4) If the negotiation is done by means of any of the distant communication devices, the consumer must be given in a sufficient advance before the conclusion of the agreement the information as follows:

- a) business name and identification number of the supplier, registered office of the legal entity and residence of the individual;
- b) name and main characteristics of the goods or services;
- c) price of the goods or services including all fees;
- d) costs of supply;
- e) way of payment, supply or performance;
- f) instruction about the right of withdrawal except for cases according to paragraph 7;
- g) costs of use of the distant communication devices;
- h) time period during that the offer or price shall remain valid.

(5) After conclusion of the agreement by means of distant communication devices but no later than before the performance, the consumer must be given in writing the information as follows:

- a) business name and identification number of the supplier, registered office of the legal entity

and residence of the individual;

b) information regarding the conditions and ways of exercise of the right of withdrawal;

c) information regarding services provided after the sale and about guarantees;

d) conditions of cancellation of the agreement unless the validity period is determined or if the validity exceeds 1 year.

(6) If the agreement was concluded by means of distant communication devices, the consumer may withdraw from the agreement within 14 days after the performance was taken over. If the supplier did not give the consumer information that he is obliged to give in writing or in another analogous way according to the provisions of paragraphs 4 and 5, this withdrawal period shall be 3 months long and shall start running after the performance was taken over. However, if the information is properly given in its course, the course of the three-month period shall end and a fourteen-day period shall start running from that moment.

(7) Apart from cases when the withdrawal right was explicitly agreed, the consumer can not withdraw according to paragraph 6 from the following agreements:

a) agreements on provision of services if their performance started with a consent of the consumer before the lapse of the period of 14 days after the performance was taken over;

b) agreements on supply of goods or services whose price depends on variations of financial market independently from the supplier's will;

c) agreements on supply of goods adjusted according to the consumer's request or for his person as well as of quickly perishable goods or goods succumbing to a quick wear or inveteration;

d) agreements on supply of audio and video records and computer programs if the consumer impaired their original wrapping;

e) agreements on supply of newspapers, periodicals and magazines;

f) agreements based on game or lottery.

(8) If the supplier provides the consumer without a performance without any order, the consumer shall have neither to return the performance to the supplier nor to inform him about it.

## § 54

The provisions on agreements concluded according to § 53 shall not apply to

a) agreements on financial services according to special acts;

b) agreements concluded by means of vendor machines or of automatised sale shops;

c) concluded by operators of distant communication devices by means of public telephones;

d) agreements on construction or sale of a real estate or agreements regarding other rights to a real estate except for lease;

e) agreements concluded on the basis of auctions;

f) agreements on supply of food, beverages or other goods of usual consumption delivered by steady suppliers to the consumer's household or registered office;

g) agreements on accommodation, carriage, catering or use of leisure if the supplier provides these performances in a specified term or moment.

## § 55

(1) Terms of consumer agreements must not deviate from the act to the detriment of the consumer. In particular, the consumer can not waive his rights given him by the act or otherwise worsen his contractual position.

(2) The terms of consumer agreements mentioned in § 56 shall be considered valid unless the consumer appeals to their invalidity (§ 40a). However, if such term directly influences



also other terms of the agreement, the consumer may appeal to an invalidity of the whole agreement.

(3) In case of doubts about the sense of consumer agreements, the interpretation more advantageous for the consumer shall be taken into account.

## § 56

(1) The consumer agreements must not contain terms that are at variance with the requirement of good faith and mean a considerable inequality in rights and duties of the parties to the detriment of the consumer.

(2) The provision of paragraph 1 shall not apply to the terms that define the subject of the performance of the agreement or its price.

(3) In particular, the following terms shall be inadmissible:

- a) terms that exclude or restrict the supplier's liability for a conduct or omission resulting in the consumer's death or injury;
- b) terms that exclude or restrict the consumer's rights in asserting the liability for defects or the liability for damages;
- c) terms that stipulate that the agreement shall be binding for the consumer whilst the supplier's performance is linked to fulfilment of a condition whose realisation depends exclusively on the supplier's will;
- d) terms that allow the supplier not to give the consumer the performance provided by him even if the consumer does not conclude the agreement with the supplier or if he withdraws from it;
- e) terms that entitle the supplier to withdraw from the agreement without any contractual or legal reason without entitling the consumer to the same;
- f) terms that entitle the supplier to terminate the agreement concluded for an infinite period of time without an adequate period of notice without having reasons worth a special account therefor;
- g) terms that oblige the consumer to fulfil conditions he was not enabled to learn of before the conclusion of the agreement;
- h) terms that allow the supplier to change the terms of the agreement unilaterally without any reason stipulated in the agreement;
- i) terms stipulating that the price of goods or services shall be specified at the moment of their performance or that entitle the supplier to increase the price of goods or services unless the consumer is entitled to withdraw from the agreement if the price agreed at the moment of conclusion of the agreement is essentially exceeded at the moment of the performance;
- j) terms that bind the consumer to fulfil all his obligations even if the supplier has not fulfilled the obligations already arisen to him;
- k) terms that allow the supplier to assign the rights and duties from the agreement without the consumer's consent if the assignment results in worsening of the enforceability or security of the consumer's claim.

## § 57

(1) If the consumer agreement was concluded outside premises that usually serve to the supplier's business or if the supplier has no steady place of business, the consumer may withdraw from the agreement in writing within 7 days from its conclusion; if the supplier has not yet fulfilled the supply of goods or services, the consumer may withdraw from the agreement within one month. This rule does not apply if the consumer has explicitly agreed on the supplier's visit for the purpose of the order.

(2) The supplier must notify the consumer in writing about the withdrawal right no later than at the moment of conclusion of the agreement; the written notification must also contain identification of the person with whom this right is to be exercised including residence or registered office of such person.

(3) In case of breach of the duty stipulated in the preceding paragraph, the consumer may withdraw from the agreement within one year after the its conclusion.

(4) The provisions of the preceding paragraphs do not apply to agreements

- a) on construction, sale, lease or other right to a real estate except for agreements on its reparation and on supply of devices embodied therein;
- b) on supply of food or other goods of usual consumption delivered by steady suppliers into the consumer's household or to another place identified by the consumer;
- c) on supply of goods or services concluded according to a supplier's catalogue that the consumer was enabled to study without the supplier's attendance provided that the contact between the parties is to go on in fulfilling of the concluded or other agreement and provided that the consumer is entitled to withdraw from the agreement within at least 7 days after the take-over of goods and if the consumer has been informed of this right in the catalogue or in the agreement;
- d) on insurance or securities.

§ 58 to 99  
repealed

CHAPTER EIGHT  
STATUTE OF LIMITATION  
§ 100

(1) A right shall become statute-limited unless it was exercised during the time period stipulated in this Act (§ 101 to 110). The court shall take the statute of limitation into consideration only upon an objection of the debtor. If the debtor appeals to the statute of limitation, the statute-limited right can not be awarded to the creditor.

(2) All property rights except for ownership can become statute-limited. The provision of § 105 shall not be affected by this rule. A lien shall not become statute-limited before the secured receivable.

(3) Rights following from deposits on saving books or other kinds of deposits or deposits on current accounts shall not become statute-limited until the end of the deposit relationship.

**Limitation period**  
§ 101

Unless anything else is stipulated in the following provisions, the limitation period shall be three years long and shall start running from the day when the right could be exercised for the first time.

§ 102

As for rights that are to be asserted at first with an individual or a legal entity, the limitation period shall start running from the day when the right was asserted in this way.

§ 103

If the parties agreed on instalment performance, the limitation period of the individual instalments shall start running from their due day. If the whole debt becomes due because of non-fulfilment of one instalment (§ 565), the limitation period shall start running from the due day of the non-fulfilled instalment.

#### § 104

As for rights following from insurance, the limitation period shall start running after the lapse of one year after the insurance event.

#### § 105

As for right of the lawful heir to demand surrendering the inheritance (§ 485), the limitation period shall start running from the moment when the decision finishing the inheritance proceedings became final and conclusive.

#### § 106

(1) Right to compensation of damage shall become statute-limited in two years from the day when the damaged person learnt of the damage and of the liable person.

(2) The right to compensation of damage shall become statute limited no later than in three years and, as for damages caused by intention, in ten years from the day when it came to the event from that the damage arose; this rule shall not apply to damages to health.

#### § 107

(1) Right to demand surrendering of an unjustified enrichment shall become statute-limited within two years from the day when the entitled person learnt of the unjustified enrichment and of the enriched person.

(2) The right to demand surrendering of the unjustified enrichment shall become statute-limited no later than in three years and, as for an unjustified enrichment gained by intention, in ten years from the day when it came thereto.

(3) If participants of an invalid or cancelled agreement are obliged to return to one another all that they received according to it, the court shall take the limitation plea into consideration only if also the other participant could appeal to the statute of limitation.

#### § 108

Rights from transport shall become statute-limited within one year except for rights to compensation of damages from the transport of persons.

#### § 109

Right corresponding to an easement shall become statute-limited unless it is exercised for ten years.

#### § 110

(1) A right that was awarded by a final and conclusive decision of the court or other authority shall become statute-limited within ten years from the day when the liable party

was to perform according to the decision. A right that was acknowledged by the debtor in writing as for its title and sum shall become statute-limited within ten years from the day when it came to the acknowledgement; however, if a performance period was mentioned in the acknowledgement, the limitation period shall start running from the lapse of this performance period.

(2) The same limitation period shall apply also to individual instalments into that the performance was divided in the decision or the acknowledgement; the limitation period of the individual instalments shall start running from their due day. If the whole debt becomes due because of non-fulfilment of one instalment (§ 565), the ten-year limitation period shall start running from the due day of the non-fulfilled instalment.

(3) Interest and repeated performance shall become statute-limited within three years; however, if they were finally and conclusively awarded or acknowledged in writing, this limitation period shall apply only to interest and repeated performance that became due after the decision became final and conclusive or after the acknowledgement was done.

### **Course of the limitation period**

#### **§ 111**

Change in the person of creditor or debtor shall have no influence on the course of the limitation period.

#### **§ 112**

If the creditor exercises his right with a court or other competent authority during the limitation period and properly continues in the commenced proceedings, the limitation period shall not run from the moment of the exercise during the proceedings. This rule shall also apply to a finally and conclusively awarded right in case of that an enforcement of a decision was applied for with a court or other competent authority.

#### **§ 113**

As for rights of persons who must have a legal representative or for rights against these persons, the statute of limitation shall not start until a representative is appointed to them. An already running limitation period shall go on running; however, it shall not end within one year after a legal representative is appointed to these persons or after this impediment expires otherwise.

#### **§ 114**

As for a right between legal representatives on one side and minor children or other represented persons on the other, the limitation period shall neither start running nor go on running unless the matter is interest or repeated performance. The same rule shall apply also to rights between spouses.

## **CHAPTER NINE DEFINITION OF SEVERAL TERMS**

### **Household**

#### **§ 115**

A household is created by individuals permanently living with each other and jointly covering expenses for their needs.

### **Close persons**

#### § 116

A close person shall be defined as a relative in direct line, brother or sister and the spouse; other persons in a family or other relation shall be considered close to each other if a detriment suffered by one of them is reasonably felt as own by the other.

#### § 117

The level of relationship of two persons shall be ascertained according to the number of births from that one person originates from the other in the direct line and by that both persons originate from the common ancestor in a side line.

### **Things and rights**

#### § 118

(1) Things and, if their nature admits so, rights or other property values can be subject to civil legal relationships.

(2) Also flats and non-residential premises may be subject to civil legal relationships.

#### § 119

(1) Things shall be divided into movable things and real estate property.

(2) Real estate property shall be defined as lands and buildings connected with the ground by a firm foundation.

#### § 120

(1) Component of a thing is defined as all that appertains to the thing according to its nature and can not be separated from the thing without devaluation of the thing.

(2) A building shall not be component of a land.

#### § 121

(1) Accessories shall be defined as things that belong to the owner of the main thing and are designed by the owner to a permanent use with the main thing.

(2) Accessories of a flat shall be defined as side rooms and premises designed to a use with the flat.

(3) Accessories of a receivable shall be defined as interest, default interest, default charge and expenses connected with its enforcement.

### **Reckoning of time**

#### § 122

(1) A time period specified in days shall start running on the day after it came to the event decisive for commencement of the period. Half of a month shall be defined as fifteen days.

(2) A time period specified in weeks, months or years shall end on the day whose name or

number is identical with the day

when it came to the event from that the period is reckoned. If there is no such day in the last month, the time period shall end on its last day.

(3) Should the end of the period fall to saturday, sunday or a public holiday, the time period shall end on the nearest working day.

## **PART TWO REAL RIGHTS**

### **CHAPTER ONE OWNERSHIP RIGHT**

#### **§ 123**

Within the limits of law, the owner shall be entitled to hold the subject of his ownership, use it, consume its proceeds and dispose of it.

#### **§ 124**

All owners shall have the same rights and duties and shall be granted the same legal protection.

#### **§ 125**

(1) A special act shall regulate ownership of flats and non-residential premises.

(2) A special act shall stipulate what things can be owned only by the state or by specified legal entities.

#### **§ 126**

(1) The owner shall have the right to protection against anyone who unlawfully infringes its ownership; in particular, the owner may demand surrendering of the thing against the person who unlawfully retains his thing.

(2) The analogous right shall belong to the person who is entitled to hold the thing.

#### **§ 127**

(1) The owner of a thing must omit all that inadequately bothers another person or that seriously jeopardises the exercise of his rights. Therefore, the owner must in particular not jeopardise the neighbour's building or plot by arrangements of his plot or by arrangements of his building placed thereon without taking sufficient measures for stiffening of the building or plot; furthermore, the owner must not inadequately bother the neighbours with noise, dust, ashes, smoke, gases, vapour, smells, solid or liquid waste, light, shading and vibrations; he must not let bred animals intrude the neighbour's plot and carelessly or in an unsuitable season remove roots of trees from his soil or remove branches of trees exceeding to his plot.

(2) If it is necessary and if it does not prevent a useful use of the neighbouring plots and buildings, the court may, after ascertaining the opinion of the competent building authority, decide that the owner of the plot must fence the plot.

(3) Owners of neighbouring plots must admit entrance to their plots eventually buildings placed thereon for a necessary time and to a necessary extent if it is necessary for maintenance and management of the neighbouring plots and buildings. If damage to plots or

building arises from such use, the person who caused the damage must compensate it; he cannot liberate himself from this liability.

#### § 128

(1) The owner of a thing must admit use of his thing in a state of stress or in an urgent public interest for a necessary time and to a necessary extent and for a reimbursement unless the purpose of the use cannot be achieved otherwise.

(2) In a public interest, a thing may be expropriated or ownership thereof may be restricted unless the purpose can be achieved otherwise; the expropriation or restriction may be done only on the basis of law, only for this purpose and for a compensation.

### **Possession**

#### § 129

(1) Possessor shall be defined as a person who possesses a thing as it was his own or who exercises a right for himself.

(2) Possession may concern things as well as rights allowing a permanent or repeated exercise.

#### § 130

(1) Lawful possessor shall be defined as a possessor who is, with regard to all circumstances, in good faith that he is the owner of the thing or the right. In case of doubts, the possession must be presumed lawful.

(2) Unless an act stipulates otherwise, a lawful possessor shall have the same rights as the owner; in particular, he shall be entitled to proceeds from the thing that arose during the lawful possession.

(3) The lawful possessor shall have the right against the owner to reimbursement of costs reasonably spent on the thing during the lawful possession up to the extent corresponding to the valorisation of the thing at the moment when it was returned. However, usual expenses connected with the maintenance and operation shall not be reimbursed.

#### § 131

(1) An unlawful possessor must always surrender the thing to its owner together with all its proceeds and compensate the damage arisen due to the unlawful possession. However, he may deduct costs necessary for maintenance and operation of the thing.

(2) The unlawful possessor may separate what he valorised the thing by if it is possible without impairment of the substance of the thing.

### **Acquisition of ownership**

#### § 132

(1) Ownership of a thing may be acquired on the basis of a purchase, donation or other agreement, by way of succession, on the basis of a decision of a state authority or on the basis of other facts laid down by an act.

(2) If the ownership is acquired on the basis of a decision of a state authority, the ownership shall be acquired on the day specified therein; if no such day is specified, on the day when the decision became final and conclusive.

### § 133

(1) If a movable thing is transferred on the basis of an agreement, the ownership shall be acquired by taking over the thing unless a legal regulation or the participants' agreement stipulate otherwise.

(2) If a real estate property is transferred on the basis of an agreement, the ownership shall be acquired by entering it in the Real Estate Cadastre according to special regulations unless a special act stipulates otherwise.<sup>2a)</sup>

(3) If a real estate property not registered with the Real Estate Cadastre<sup>2b)</sup> is transferred on the basis of an agreement, the ownership shall be acquired at the moment when this agreement became effective.

-----  
<sup>2a)</sup> Act No. 265/1992 Sb. on registrations of ownership and other real rights to real estate property, as amended by the Act

No. 210/1993 Sb.

<sup>2b)</sup> Act of the Czech National Council No. 344/1992 Sb. on the Real Estate Cadastre of the Czech Republic (Cadastral Act),  
as amended by the Act No. 89/1996 Sb.

### § 134

#### **Positive prescription of ownership**

(1) A lawful possessor shall become owner of a thing if he holds the thing uninterruptedly for at least three years as for movable things and for at least ten years as for a real estate property.

(2) Ownership to things that cannot be subject to ownership or to things that can be owned only by the state or legal entities specified by an act (§ 125) cannot be acquired in this way.

(3) The period mentioned in paragraph 1 shall include the period during that legal ancestor lawfully held the thing.

(4) Provisions regulating the course of the limitation period shall adequately apply to the commencement and course of the period under paragraph 1.

### § 135

(1) A person who finds a lost thing must give it off to the owner. Unless the owner is known, the finder must give the thing over to the competent state authority. Unless the owner applies for the thing within one year after it was given over, the thing shall pass to the ownership of the state.

(2) The finder shall have the right to reimbursement of necessary expenses and to a reward in the sum of 10 % of the price of the found thing. A special legal regulation may regulate the rights of the finder otherwise.

(3) The provisions of paragraphs 1 and 2 shall adequately apply also to hidden things whose owner is not known and to abandoned things.

### § 135a

Accessions of the thing, even if they were separated from the main thing, shall belong to the owner of the thing.

### § 135b



(1) If somebody works up somebody else's thing in good faith into a new thing, the new thing shall pass to the ownership of the person whose share of the thing is bigger. However, the new owner must provide the other owner with reimbursement of the price of what his property was reduced by. If the shares are equal and the participants are not able to agree, the dispute shall be decided by a court upon the request of any of them.

(2) If somebody works up somebody else's thing knowing that he is not the owner of the thing, the owner may ask him to give off the thing and restore the preceding state. If restoration of the preceding state is possible or useful, the court shall, according to all circumstances, decide on who is the owner of the thing and what reimbursement shall belong to the owner or worker unless they are able to agree.

#### § 135c

(1) If somebody constructs a building on somebody else's plot without being entitled thereto, the court may upon a request of the owner of the plot decide that the building is to be removed at costs of the person who construed the building (hereinafter the "owner of the building").

(2) Unless the removal of the building is useful, the court shall decide that the building shall pass to the ownership of the owner of the plot if this owner agrees to this solution.

(3) The relationships between the owner of the plot and the owner of the building may be regulated by the court also otherwise; the court may in particular establish for a compensation an easement that is necessary for exercise of the ownership of the building.

### CHAPTER TWO CO-OWNERSHIP AND JOINT PROPERTY

#### § 136

(1) A thing may be co-owned by more owners.

(2) Joint property may arise only between spouses.

#### **Co-ownership** § 137

(1) The share specifies the extent to that individual co-owners take part in rights and duties following from the co-ownership of the common thing.

(2) Unless an act stipulates otherwise or unless the participants agreed on anything else, the shares of all co-owners shall be equal.

#### § 138 repealed

#### § 139

(1) All co-owners shall be jointly and severally entitled and obliged from legal acts concerning the common thing.

(2) Management of the common thing shall be decided by a majority calculated according to size of shares. If the votes are equal or if no majority or agreement can be achieved, the dispute shall be decided by the court upon the request of any co-owner.

(3) In case of an important change of the common thing, the outvoted co-owners may ask the court to decide on the change.

#### § 140

If the share is transferred, the co-owners shall have a pre-emptive right unless the share is transferred to a close person (§ 116, 117). Unless the co-owners agree on the exercise of the pre-emptive right, they shall have the right to buy the share proportionally according to the size of their shares.

#### § 141

(1) The co-owners may agree on cancellation of the co-ownership and on a mutual settlement; the agreement must be done in writing if it concerns a real estate property.

(2) Upon a request, each co-owner must give the others a written confirmation on how they settled unless already the agreement on cancellation of the co-ownership and on its settlement was done in writing.

#### § 142

(1) If no agreement was concluded, the court shall cancel the co-ownership and carry out its settlement upon request of any of the co-owners. In doing so, the court shall take account of the size of shares and useful use of the thing. Unless the division of the thing is well possible, the court shall decide that the thing shall pass to the ownership of one or more co-owners for an adequate compensation; in doing so, the court shall take account of how the thing could be effectively used. If none of the co-owners wants the thing, the court shall order a sale of the thing and divide the proceeds according to the size of shares.

(2) If there are reasons worth a special respect, the court shall not cancel and settle the co-ownership by ordering the thing to one or more owners for compensation or by selling the thing and dividing the proceeds.

(3) In cancelling and settling the co-ownership by dividing the thing, the court may establish an easement to the newly arisen real estate property in favour of the owner of another newly arisen real estate property. Cancellation of the co-ownership and its settlement must not result in detriment of persons entitled from rights appertaining to the real estate property.

### **Joint property of spouses**

#### § 143

(1) Joint property of spouses shall consist of

- a) property acquired by any of the spouses or by both of them during the marriage except for property acquired by way of succession or donation, property acquired by one spouse for a property belonging to his or her exclusive property as well as except for things serving according to their nature to a personal use of only one spouse, and for property surrendered in the framework of regulations of restitution of the property of one of the spouses who owned the surrendered thing before entering into the marriage or to whom the thing was surrendered because he is a legal successor of the original owner,<sup>3)</sup> and
- b) obligations arisen to one spouse or jointly to them both during the marriage except for obligations concerning a property belonging exclusively to one of them and for obligations whose extent exceeds a level adequate to the property condition of the spouses and that were

assumed by one spouse without a consent of the other.

(2) If one spouse becomes an associate of a business company or member of a co-operative during the marriage, neither acquisition of a share including a share in a joint stock company nor acquisition of rights and duties of a member of a co-operative shall establish participation of the other spouse in the company or co-operative except for flat co-operatives.

-----  
<sup>3)</sup> Such as the Act No. 403/1990 Sb., on moderation of certain property injustices, as subsequently amended, the Act No. 87/1991 Sb., on extrajudicial rehabilitation, as subsequently amended, the Act No. 229/1991 Sb., on regulation of ownership relations to land and to other agricultural property, as subsequently amended.

#### § 143a

(1) On the basis of an agreement drawn up in the form of a notarial record, the spouses may extend or restrict the stipulated extent of their joint property. In this way, the spouses may change both the extent of property and obligations to be acquired in the future and the extent of property and obligations that already belong to their joint property. The agreement may also concern individual property values and obligations. If the agreement concerns a real estate property that already belongs to the joint property of spouses or to the exclusive property of one spouse, the agreement shall become effective by entering it in the Real Estate Cadaster.

(2) Furthermore, the spouses may, on the basis of an agreement drawn up in the form of a notarial record, reserve the rise of their joint property fully or partially to the day of expiry of their marriage unless the matter are things creating usual equipment of the common household.

(3) On the basis of an agreement drawn up in the form of a notarial record, a man and woman intending to enter into marriage may analogously regulate their future property relationships.

(4) The spouses may appeal to the agreement mentioned in the preceding paragraphs vis-à-vis another person only if this person knew of the content of the agreement.

#### § 144

Unless anything else is proved, property acquired and obligations undertaken during the marriage shall be presumed to create the joint property of spouses.

#### § 145

(1) Property creating the joint property of spouses shall be used and maintained jointly by both spouses.

(2) Usual management of the property falling into the joint property of spouses may be executed by each spouse. In other cases, consent of both spouses shall be necessary or the legal act is invalid.

(3) Obligations creating the joint property of spouses shall be performed by both spouses jointly and severally.

(4) The spouses shall be jointly and severally entitled and obliged from legal acts concerning their joint property.

#### § 146

A property or its part falling into the joint property of spouses may be used by one spouse for the purpose of business only with a consent of the other spouse. The consent must be granted at the moment of the first use of the property or its part falling into the joint property of spouses. Further legal acts connected with business shall no longer require the consent of the other spouse.

#### § 147

On the basis of an agreement drawn up in the form of a notarial record, the spouses may regulate management of the joint property in a different way. The same regulation of management of the future joint property may be done by a man and woman intending to enter into the marriage. The provision of § 143a para. 4 shall apply here analogously.

#### § 148

(1) Upon a petition of any of the spouses, the court may restrict the joint property of spouses up to things creating usual equipment of household if important reasons are given thereto.

(2) Upon a petition of any of the spouses, the court shall restrict the joint property of spouses up to things creating usual equipment of household if one spouse gained an authorisation to business or if he became an unlimitedly liable associate of a business company.

(3) If the business activity is executed after the court's decision according to paragraph 2 by the businessman jointly or with the assistance of the other spouse who is not businessman, the income following from this business shall be divided between them in a proportion stipulated by a written agreement; if no such agreement was concluded, the income shall be divided by an equal shares.

(4) If the joint property of spouses was subject to a decision according to paragraph 1 or 2, it can be extended to the previous extent only by a decision issued by the court upon a petition of any of the spouses.

#### § 148a left out

#### § 149

(1) The joint property of spouses shall become extinct at the moment of extinction of the marriage.

(2) The extinct joint property of spouses shall be settled; in settling it, it shall be necessary to proceed from the assumption that shares of both spouses on property creating their joint property are equal. Each of the spouses shall be entitled to demand reimbursement of what he or she spent from his or her exclusive property for the joint property and each of the spouses must reimburse what was spent from the joint property for his or her other property. It shall be necessary to proceed from the assumption that obligations of both spouses arisen during the marriage must be performed by the spouses by equal shares.

(3) In settling the joint property of spouses, it shall be particularly necessary to take account of needs of minor children, of how each of the spouses cared for the family and how he or she deserved for acquisition and keeping of the joint property. In ascertaining the extent of the endeavour, also care for children and maintenance of the common household shall be taken into consideration.

(4) In cases mentioned in § 143a para. 1 and § 148 para. 1, the provisions of paragraphs 2 and 3 shall apply analogously.

#### § 149a

If the agreements between the spouses according to § 143 and 149 concern real estate property, they must be concluded in writing and shall become effective by entering them in the Real Estate Cadaster.

#### § 150

(1) An agreement on settlement of the joint property of spouses must be concluded in writing. If also a real estate property belong to the joint property of spouses, the agreement shall become effective by entering it in the Real Estate Cadastre.

(2) Rights of creditors must not be affected by the agreement of the spouses.

(3) Unless the settlement is carried out on the basis of an agreement, it shall be carried out by the court upon a petition of any of the spouses.

(4) If the settlement of the joint property of spouses was not carried out on the basis of an agreement within three years from the day when the joint property of spouses became extinct or if no application for the settlement was filed with the court within three years from its extinction, the following presumption shall apply: as for movable things, the spouses shall be presumed to have settled the movable things according to the state in that each of the spouses uses the thing as an exclusive owner for its own needs or for the needs of his or her family and household. Other movable things and real estate property shall be considered co-owned by the spouses and their shares shall be presumed to be equal; the same rule shall apply also to other property rights, receivables and obligations common to both spouses.

#### § 151

A joint property of spouses that became extinct during the marriage may be renewed only on the basis of a decision of the court issued upon a petition of one of the spouses.

### CHAPTER THREE RIGHTS IN RE ALIENA

#### § 151a to 151m repealed

#### **Easements** § 151n

(1) Easements shall restrict the owner of a real estate property in favour of someone else in the manner that he must suffer something, omit something or do something. The rights corresponding to the easements shall be either connected with ownership of certain real estate property or belong to certain person.

(2) Easements connected with ownership of a real estate property shall pass to the acquirer together with acquisition of the ownership of the property.

(3) Unless the participants agreed on anything else, the person who is entitled to use somebody else's thing on the basis of a right corresponding to the easement must bear

adequate costs of its maintenance and reparations; however, if the thing is used also by its owner, he must bear these costs according to the extent of the joint use.

§ 151o

(1) Easements can arise on the basis of a written agreement, on the basis of a will connected with results of the inheritance proceedings, on the basis of an approved agreement of the heirs, on the basis of a decision of the competent authority or by operation of law. The right corresponding to an easement may be also acquired by exercising the right (positive prescription); the provision of § 134 shall apply analogously. The acquisition of a right corresponding to the easement shall require an entry in the Real Estate Cadastre.

(2) Only the owner can establish an easement on the basis of an agreement unless a special act entitles also other persons to do so.

(3) Unless an owner of a building is simultaneously owner of the adjacent plot and if the access of the owner to the building can not be assured otherwise, the court may upon a petition of the owner of the building establish an easement in favour of the owner of the building consisting in a right of road over the adjacent plot.

§ 151p

(1) Easements shall become extinct on the basis of a decision of the competent authority or by operation of law. Extinction of an easement on the basis of an agreement shall require an entry in the Real Estate Cadastre.

(2) The easement shall become extinct if it comes to such permanent changes that the thing can no longer serve to the needs of the entitled person or to a more prosperous use of his real estate property; the easement shall not become extinct only due to a transient impossibility of the exercise of the right.

(3) If change of the condition results in a gross disproportion between the easement and the advantage of the entitled person, the court may decide that that easement shall be restricted or cancelled for an adequate compensation. If the in kind performance is no more possible to insist on due to the change of condition, the court may decide that a cash performance shall be provided instead of the in kind performance.

(4) If the right corresponding to an easement belongs to a certain person, the easement shall become extinct no later than at the moment of its death or dissolution.

§ 151r

left out

§ 151s to 151v

repealed

CHAPTER THREE A  
LIEN AND RIGHT OF RETENTION

Title one

Pledge

§ 152

A pledge shall serve to stand security for a receivable in case the debt corresponding thereto is not timely performed; in such case, the satisfaction may be reached from the proceeds of turning the pledge into cash.

#### § 153

(1) A pledge may be a movable thing or a real property, an enterprise or another aggregate thing, a set of things, a receivable or another property right where it is admitted by the nature thereof, a flat or a non-residential premise owned according to a special law, an ownership interest, a security or an industrial property right.

(2) The pledge shall apply even to accessories, accruements and proceeds from the pledge that have not yet been separated therefrom.

(3) A receivable may be secured by a pledge over several individual pledges (collective pledge).

#### § 154

The provisions of this law shall apply even to a pledge to an ownership interest, to securities or, as the case may be, to a pledge based on securities (such as mortgage bonds) or to a pledge to industrial property rights save where special laws regulating these types of pledge provide for something else.

#### § 155

(1) The pledge may stand security for both in cash receivable and in kind receivable. the pledge shall apply even to the accessories of this receivable.

(2) An in kind receivable shall be secured up to the sum of a usual price thereof on the day of rise of the pledge.

(3) A pledge may stand security even for a receivable that is to arise in the future or for a receivable the rise whereof is linked to a condition.

(4) A pledge may up to the agreed sum stand security even for receivables that will arise to the pledgee against the debtor during certain period.

(5) The pledge shall apply even to claims of the pledgee ensuing from withdrawing from an agreement on the basis whereof the secured receivable arose save where the pledge agreement provides for something else.

### **Rise of the pledge**

#### § 156

(1) The pledge shall arise on the basis of a written agreement (§ 552) or of a decision of a court approving an inheritance settlement agreement. Under conditions provided by law, the pledge may arise on the basis of a decision of the court or an administrative authority. The pledge may arise even by operation of law.

(2) The pledge agreement must contain identification of the pledge and of the receivable the pledge stands security for.

(3) Where the pledge is real property not registered with the Real Property Cadastre, sets of things or things whereto the pledge is to arise without giving them over to the pledgee or to a third person (§ 157 para. 2 and 3), the agreement must be executed in the notarial form.

#### § 157

(1) Mortgage over real property and over flats and non-residential premises owned according to a special law shall arise by entering it in the Real Property Cadastre save where something else is provided by law.

(2) A pledge to movable things shall arise by giving them over to the pledgee save where something else is provided by law.

(3) Giving the movable things over to the pledgee under paragraph 2 may be superseded by putting the thing into custody or storage with a third person in favor of the pledgee or of the pledger where it is stipulated in the pledge agreement.

#### § 158

(1) Mortgage over a real property being not registered with the Real Property Cadastre, a pledge over an aggregate thing, a pledge over a set of things and pledge over movable things to be pledged under the pledge agreement without being given over to the pledgee or to a third person (§ 157 para. 2 and 3) shall arise on the basis of a registration with the Pledge Registry maintained by the Notarial Chamber of the Czech Republic; this rule shall not apply where the pledge was established by a decision of a court or administrative authority.

(2) Registration of the pledge with the Pledge Registry shall be made by the notary who executed the pledge agreement in the form of a notarial record; the registration must be made immediately after the conclusion of the pledge agreement.

#### § 159

(1) A pledge over a receivable shall arise at the moment of entering into the agreement save where the agreement stipulates anything else.

(2) A pledge over a receivable shall be effective as against the debtor of the pledged receivable (sub-debtor) at the moment when a written notification of the pledger thereof is delivered to the sub-debtor or when the pledgee proves the rise of the pledge with the sub-debtor.

#### § 160

(1) A pledge based on a decision of the court or of an administrative authority shall arise on the day when this decision becomes final and conclusive.

(2) Mortgage over real property being not registered with the Real Property Cadastre, a pledge over an aggregate thing, a pledge over a set of things and a pledge over movable things pledged without being given over to the pledgee or to a third person (§ 157 para. 2 and 3) that arose on the basis of a decision of a court or an administrative authority shall be registered with the Pledge Register kept by the Notarial Chamber of the Czech Republic.

#### § 161

(1) Where someone pledges somebody else's movable thing without the consent of the owner or of the person having a right to the movable things being incompatible with the pledge, the pledge shall arise only if the movable things is given to a pledgee who accepts it in good faith that the pledger is entitled to pledge the thing.

(2) Somebody else's real property, an aggregate thing, a set of things and flat or a non-residential premise owned according to a special law may be pledged (mortgaged) only with a consent of the owner and of the person having a right to the things being incompatible with



the pledge (mortgage). The same rule shall apply to somebody else's receivable, another property right, ownership interest, security or an industrial property right.

### **Rights and duties during the existence of the pledge**

#### **§ 162**

(1) The pledgee to whom the pledge was given over may hold the pledge during the whole existence of the pledge. The pledgee must take care of the pledge with a care of a due manager; the pledgee must, in particular, look after the pledge and protect it against damage, loss or destruction. Where purposefully spent costs arise to the pledgee in connection with fulfilling this duty, the pledgee shall have a right against the pledger to a reimbursement thereof.

(2) The pledgee may use the pledge and take possession of accruements, proceeds and benefits therefrom only with a consent of the owner of the pledge.

(3) Where the pledge is lost, destroyed or damaged during the period when the pledgee holds the pledge, the pledgee shall be liable for the arisen damage according to general provisions for liability for damage.

(4) Where the pledge is given to a third person, this person must neither give the pledge to a further person nor enable anyone else to use it; as for other issues, this person shall have rights and duties of a custodian (§ 747 ff.) save where the parties agreed on anything else.

#### **§ 163**

(1) The pledger must abstain from everything that impairs the pledge to the detriment of the pledgee.

(2) Where the price of the pledge is reduced in a manner that the security for the receivable becomes insufficient, the pledgee may demand that the pledger completes the security without undue delay. Where the pledger fails to do so, the unsecured part of the receivable shall become due.

#### **§ 164**

(1) The pledge shall be effective as against every further owner of the pledged thing, set of things or flat or non-residential premise owned according to a special law save where a special law provides for something else. The same rule shall apply to every further creditor of a pledged receivable, to every further person entitled from another pledged property right or industrial property right and to every further owner of a pledged ownership interest or security.

(2) The person as against whom the pledge under paragraph 1 is effective shall have the position of the pledger.

### **Satisfaction from the pledge**

#### **§ 165**

(1) Where the receivable secured by the pledge is performed timely, the pledgee shall have the right to satisfaction of his receivable from the proceeds of turning the pledge into cash. The same rule shall apply to a pledgee whose due receivable was performed only in part or where the accessories of whose receivable were not performed.

(2) Where more rights of pledge arise over the pledge, the secured receivables shall be

satisfied after one another in the order determined according to the moment of rise of the rights of pledge.

#### § 165a

(1) The pledge may be turned into cash upon a petition of the pledgee in a public auction or by a judicial sale of the pledge. The judicial sale of the pledge shall be ordered and the sale of the pledge shall be carried out according to the Civil Procedure Code.

(2) Where a receivable is secured by more pledges, the pledgee may propose turning any of them into cash; where it is necessary for satisfaction of the receivable, the pledgee may even propose a sale of more pledges or of all the pledges.

(3) The right of the pledgee to demand satisfaction of the receivable secured by the pledge with a court against the debtor shall not be affected by the provisions of paragraphs 1 and 2.

#### § 166

(1) A person claiming that a sale of the pledge in a public auction is not admissible must exercise his right by a lawsuit filed with a court against the pledgee and demand that the court rule that the sale of the pledge is not admissible.

(2) The lawsuit under paragraph 1 may be filed within one month from the day of delivery of the announcement of the public auction to the persons specified by law but not later than before the day of commencement of the public auction.

(3) The public auction may be carried out after the lapse of the period referred to in paragraph 2; where a lawsuit under paragraph 1 is filed during this period, the public auction may be carried out after the court finally and conclusively decided on this lawsuit.

(4) A person who filed a groundless lawsuit under paragraph 1 must give the pledgee a compensation for damage caused by suspension of the sale of the pledge during the period from filing the suit to the day of issuance of the decision of the first instance court where the pledgee exercised the right to compensation for this damage during the proceedings on the lawsuit before the first instance court; upon a petition of the pledgee, the court may, even in the course of the proceedings, decide that the actor must put an advance payment up to the sum of the possible compensation for damage into a custody with the court.

#### § 167

(1) Where a receivable is the pledge, the sub-debtor must perform his debt to the pledgee as soon as the debt becomes due.

(2) Where a thing is subject to the pledged receivable, a pledge over the things shall arise at the moment when this thing is given to the pledgee; the pledge over the receivable shall become extinct at the same moment.

#### § 168

Where another property right is the pledge, the procedure of turning it into cash shall be governed with regard to the nature of this right according to § 165a or according to § 167 adequately save where special legal regulations provide for anything else.

#### **Null terms**

#### § 169

Terms of pledge agreements, inheritance settlement agreements and terms agreed on separately shall be null where they provide that

- a) the pledger or the owner of the pledge must not pay up the pledge;
- b) the pledger or the owner of the pledge must not mortgage the real property or the flat or non-residential premise owned according to a special law in favor of another pledgee;
- c) the pledgee may carry out satisfaction from the pledge in a way other than what is provided by law;
- d) the pledgee must not demand satisfaction of a due receivable by sale of the pledge;
- e) in case of default with performance of the secured receivable, the pledge shall forfeit to the pledgee or that the pledgee may keep the pledge for a specified price save where a special law provides for anything else.

### **Extinction of the pledge**

#### § 170

(1) The pledge shall become extinct

- a) where the secured receivable becomes extinct;
- b) where the pledge ceases to exist;
- c) where the pledgee waives the pledge on the basis of an unilateral written act;
- d) after the lapse of a period the pledge was established for;
- e) where the pledger or the owner of the pledge pays the pledgee the usual price of the pledge;
- f) on the basis of a written agreement between the pledgee and the pledger or the owner of the pledge;
- g) in cases provided by special legal regulation.

(2) The pledge shall not become extinct when the secured receivable becomes statute-limited.

#### § 171

(1) In case of extinction of a mortgage over real property that arose by entering it in the Real Property Cadastre, a deletion thereof shall be made with effect to the same day.

(2) In case of extinction of a pledge entered or registered with the Pledge Register kept by the Notarial Chamber of the Czech Republic, any notary shall make a deletion thereof where the pledgee asks therefor or where the extinction of the pledge is proved with the notary.

#### § 172

The pledge shall not become extinct where it is related also to claims of the pledgee ensuing from withdrawal from the agreement whereunder the secured receivable arose (§ 155 para. 5).

### **Sub-pledge**

#### § 173

(1) A sub-pledge shall arise by pledging a receivable secured by a pledge where the pledge is a thing.

(2) The rise of the sub-pledge shall not require a consent of the owner of the pledged thing. However, the sub-pledge shall be effective as against him only if the rise thereof was notified to him in writing. Where the pledged receivable is secured by a mortgage over a real property

or a flat or non-residential premise owned according to a special law, the sub-pledge shall arise by entering it in the Real Property Cadastre.

#### § 174

(1) Where the pledgee (the sub-pledger) gives the pledged movable thing held by him to the sub-pledgee, this shall not relieve him of the liability for fulfilling the duties as against the owner of the pledge.

(2) Where the due receivable secured by the sub-pledge is timely performed, the sub-pledgee may demand satisfaction from the pledge instead of the pledgee (the sub-pledger).

(3) The sub-pledge shall be adequately governed by the provisions for the pledge.

#### Title two Right of retention § 175

(1) A person who is obliged to surrender somebody else's movable thing he holds may retain it in order to secure his due receivable against the person to whom he is otherwise obliged to surrender the thing.

(2) The right of retention shall arise also for security of an undue receivable if a petition for adjudication of bankruptcy was filed against the debtor.

#### § 176

(1) The right of retention shall not belong to a person who unlawfully holds the thing to that the right of retention could arise, in particular if he seized the thing arbitrarily or by fraud.

(2) The right of retention shall not belong to a person who was instructed after being given over the thing to use the thing in a way that is incompatible with exercise of the right of retention; however, this rule shall not apply if a petition for adjudication bankruptcy was filed against the debtor.

#### § 177

(1) The right of retention shall arise on the basis of an unilateral act of the entitled person by that this person expresses his or her will to retain the thing.

(2) The entitled person must notify the debtor without undue delay about retention of the thing and its reasons; if the agreement on the basis of that the entitled person holds the thing was done in writing, also the notification must be done in writing.

#### § 178

As for care for the retained thing and for reimbursement of costs connected therewith, the retaining person shall have the same position as a pledgee has regarding the pledge.

#### § 179

On the basis of the right of retention, in enforcement of a judicial decision, the creditor shall have the right to a prior satisfaction from the proceeds of sale of the retained thing before other creditors, even before a pledgee.

§ 180

(1) The right of retention shall become extinct if the secured claim became extinct, if the retained thing was destroyed or returned to the debtor.

(2) This right shall become extinct also if the debtor provides the entitled person upon his consent with another security.

**PART THREE, FOUR AND FIVE**

§ 181 to 414

repealed

**PART SIX**

**LIABILITY FOR DAMAGE AND  
FOR UNJUSTIFIED ENRICHMENT**

CHAPTER ONE

PREVENTION OF THREATENING DAMAGES

§ 415

Everyone must act so as to avoid damages to health, property, nature and environment.

§ 416

repealed

§ 417

(1) A person endangered by damage must take necessary steps for averting it in a way adequate to the circumstances of the danger.

(2) In case of a serious danger, the endangered person shall have the right to demand that the court commands taking of suitable and adequate measures in order to avert the threatening damages.

§ 418

(1) A person who caused damages when averting a directly threatening danger that he has not evoked shall not be liable for the damages unless the danger could be averted otherwise under the given circumstances or unless the caused consequences are obviously equally extensive or even more extensive than were those that threatened.

(2) A person who caused damages in a necessary defence against a threatening or lasting attack shall not be liable for them. The defence shall not be considered necessary if it was obviously inadequate to the nature and dangerousness of the attack.

§ 419

A person who averted threatening damage shall be entitled to a compensation of usefully spent costs and of damages suffered therein; this right may be exercised even against the person in whose interest he acted; the compensation shall be given maximally in the extent corresponding to the damage that was averted.

## CHAPTER TWO LIABILITY FOR DAMAGE

### Title one General liability § 420

(1) Everyone shall be liable for damage caused by violating a legal duty.

(2) The damage shall be considered caused by a legal entity or by an individual also if they were caused in the course of their activity by those who were used in such activity. These persons themselves shall not be liable according to this Act for the damage caused in this way; their liability under labour law regulations shall not be affected by this rule.

(3) A person who proves not to have caused the damage shall relieve himself of the liability for them.

### § 420a

(1) Everyone shall be liable for damage caused to somebody else by operational activities.

(2) The damage shall be considered caused by operational activities if they were caused by

- a) an activity of an operational nature or by a thing used in the course of such activity;
- b) physical, chemical eventually biological influences of the operation on the surroundings;
- c) a lawful operation or assurance of works that caused damage to somebody else's real estate property or that essentially aggravated or even prevented such person from using the real estate property.

(3) The person who caused the damage shall be relieved thereof only he proves that the damages were caused by an inevitable event not originating in the operation or by the own conduct of the damaged person.

### Title two Special cases of liability § 421

Everyone who took over somebody else's thing that was to be subject to its obligation shall be liable for its impairment, loss or destruction unless the damage had occurred even otherwise.

### § 421a

(1) Everyone shall be liable also for damage caused by circumstances originating in the nature of a tool or other thing used in performing of an obligation. The liable person can not relieve himself of this liability in any way.

(2) The liability under paragraph 1 shall apply also to provision of medical, social, veterinary and other biological services.

### **Liability for damage caused by those who are not able to consider the consequences of their conduct** § 422

(1) A minor or a person affected by a mental sickness shall be liable for damage caused by him if he was able to govern his conduct and consider its consequences; the person who was

obliged to exercise surveillance over such person shall be liable with him jointly and severally. Unless the person who caused the damage was able to govern his conduct or to consider its consequences, the liability shall apply to against the person who was obliged to exercise surveillance over such person.

(2) The person who was obliged to exercise surveillance shall relieve himself of the liability if he proves that he did not neglect a proper surveillance.

(3) If the surveillance was exercised by a legal entity, its employees who were in charge of the supervision shall not be liable for the damage under this Act; their liability according to labour law regulations shall not be affected by this rule.

#### § 423

A person who threw himself into a state disabling him to govern his conduct or to consider its consequences must compensate the damage caused in this state; those who intentionally threw him or her into this state shall be liable with him jointly and severally.

### **Liability for damages caused by an intentional conduct against good manners**

#### § 424

A person who caused damage by an intentional conduct against good manners shall be liable for it.

#### § 425 and 426 repealed

### **Liability for damages caused by operation of means of transport**

#### § 427

(1) Individuals and legal entities operating traffic shall be liable for damages caused by a special nature of this operation.

(2) The same rule shall apply to another operator of a motor vehicle, a motor vessel as well as of an aircraft.

#### § 428

The operator can not exonerate itself from its liability if the damages were caused by circumstances that originate in the operation. It may exonerate itself from the liability only if it proves that the damages could not have been prevented even despite all effort that may be required.

#### § 429

The operator shall be liable both for damages to health and things and to damages caused by theft or loss of a thing if the citizen lost the possibility to keep them as a result of the damages.

#### § 430

(1) The person who uses the vehicle without awareness or against the will of the operator shall be liable instead of the operator. However, the operator shall be liable jointly and severally with such person if it made use of the vehicle possible due to its negligence.

(2) If the vehicle is being fixed, the operator of the enterprise where the vehicle is being fixed shall be liable for damages caused by this vehicle during the period of fixing in the same way as the operator of the vehicle.

#### § 431

If operations of two or more operators collide and if the settlement between these operators is concerned, the shall be liable according to their participation in the caused damages.

#### **Liability for damages caused by an extremely dangerous operation**

#### § 432

The operator shall be liable for damages caused by the nature of an extremely dangerous operation in the same way as the operator of a traffic vehicle.

#### **Liability for damages to brought things and to things put off**

#### § 433

(1) Operator of accommodation services shall be liable for damages to things that were brought in by the accommodated individuals or for them unless the damages had arisen even otherwise. Brought things shall be defined as things that were brought into premises reserved for accommodation or for deposition of things or things that were handed to the operator or to any of its employees for such purpose.

(2) If putting off things is usually connected with operation of certain activity, the operator shall be liable for damages to things put off by an individual on a place destined to it or on a place where things are usually put off unless the damages had arisen even otherwise.

(3) The liability according to paragraphs 1 and 2 can be waived neither by a unilateral declaration nor by an agreement.

#### § 434

(1) The liability for jewellery, money and other precious things shall not exceed the sum stipulated by the implementing regulation. However, if the damages were caused by those who work in the operation, the damages shall be compensated without restriction.

(2) The damages shall be compensated without any restriction also if the things were accepted into deposit.

#### § 435

Operators of garages and other enterprises of similar kind shall be liable in the same way as operator providing accommodation services as far as vehicles placed in them and for their accessories are concerned.

#### § 436



The right to compensation of damages must be vindicated at the operator without undue delay. The right shall become extinct unless it was vindicated no later than on the fifteenth day after the day when the damaged party learnt of the damages.

§ 437

The liability for damages to things put off in vehicles of mass transportation shall be regulated only by the provisions on compensation for damages caused by their operation (§ 427 to 431).

Title three  
Joint provisions on compensation of damages

**Joint liability**

§ 438

(1) If the damages are caused by more damage-doers, they shall be liable for them jointly and severally.

(2) In grounded cases, the court may decide that those who caused the damages shall be liable individually according to the participation in causing of the damages.

§ 439

A person who is liable for damages jointly and severally with others shall settle with them according to participation in causing of the arisen damages.

§ 440

A person who is liable for damages caused by intention or negligence of another person has the right of recovery against such person.

§ 441

If the damages were caused also by intention or negligence of the damaged party, the damaged party shall bear the damages proportionally; if the damages were caused exclusively by the damaged party's intention or negligence, the damaged party shall bear the damages on its own.

§ 442

(1) The compensation shall include compensation of the real damages as well as of what the damaged party lost (lost profit).

(2) The damages shall be compensated in cash; however, the damages shall be compensated by way of restitution in integrum if the damaged party demands so and if it is possible and purposeful.

(3) If the damages were caused by an intentional crime resulting in a property benefit to the criminal, the court may decide that the right to compensation of damages may be satisfied even from things acquired from the property benefit even if they are otherwise not subject to enforcement of a decision according to the provisions of the Civil Procedure Code. Unless the

right to compensation of damages is satisfied, the debtor must not dispose of such things mentioned in the decision.

§ 443

The amount of the damages to a thing shall be ascertained from the price at the moment when the damages were caused.

§ 444

As for damages to health, the damaged party's pains and aggravation of his or her social assertion shall be compensated in lump-sum.

§ 445

Loss in earnings caused by damages to health shall be compensated by way of a cash pension; its amount shall be calculated from the average earnings achieved by the damaged party before the rise of damages.

§ 446

Compensation of loss in earnings during the damaged party's incapacity to work shall be calculated as a difference between his or her average earnings before the damages and sickness-insurance allowances.

§ 447

(1) Compensation of the loss in earnings after the end of incapacity to work or in case of invalidity shall be calculated as a difference between the average earnings before the damages and the earnings achieved after the damages plus eventual invalidity pension or a partial invalidity pension.

(2) Compensation for loss in earnings plus the damaged party's earnings and plus the eventual invalidity pension or a partial invalidity pension must not exceed the sum stipulated by provisions of labour law for compensation of damages caused by labour injuries and professional sicknesses. However, this restriction shall not apply if the damages were caused intentionally; for reasons worth a special respect, the court may adjudicate a higher sum also if the damages were caused by a gross negligence.

(3) With regard to changes in the development of price niveau, the government of the Czech and Slovak Federative Republic may issue a decree regulating conditions, sum and way of compensation for the loss in earnings after the end of inability to work or in case of invalidity.

§ 447a

Compensation for loss in pension allowances shall be granted in the sum equal to the difference between the sum of pension allowances to that the damaged party is entitled and the sum of pension allowances to that the damaged party would be entitled if the average monthly earnings from that the pension allowances were calculated include also the compensation for loss in earnings after the end of inability to work paid to the damaged party in the time period decisive for calculation of the pension allowances.

§ 448

(1) As for damages that resulted in the damaged party's death, the survivors who were paid maintenance by the damaged party or whom the damaged party was bound to pay maintenance shall be entitled to a compensation of the maintenance if the form of cash pension. The compensation of expenses for maintenance to survivors shall be granted only if these expenses are not covered by pension insurance allowances granted for the same reason.

(2) The compensation shall be calculated with regard to the average earnings of the dead; the total compensation of expenses for maintenance of all survivors must not exceed the sum of compensation of the loss in earnings to that the dead damaged party would be entitled according to § 447 para. 2.

§ 449

(1) In case of damages to health, the compensation shall also include compensation of purposeful expenses connected with medical treatment.

(2) In case of death, the compensation shall also include a compensation of adequate expenses connected with the burial unless they were covered for the burial allowances granted according to the provisions on the sickness insurance.

(3) The expenses of medical treatment and burial shall be granted to the person who paid them.

§ 450

For reasons worth a special respect, the court shall adequately reduce the compensation of damages. In deciding on the reduction, the court shall particularly take account of how it came to the damages as well as to personal and property relations of the individual who caused them; the court shall also take account of the relations of the individual damaged party. However, the reduction is not admissible if the damages were caused intentionally.

CHAPTER THREE  
UNJUSTIFIED ENRICHMENT

§ 451

(1) Anybody who gains unjustified enrichment to the detriment of somebody else shall give off the enrichment.

(2) The unjustified enrichment is defined as a property benefit gained from a performance without a legal reason, a performance from a null and void legal act, a performance from a legal title that fell off as well as a property benefit gained from unfair sources.

§ 452 and 453  
repealed

§ 454

The unjustified enrichment was gained also by a person for whom somebody else paid what the enriched person had to pay on its own.

§ 455

(1) Receipt of a statute-limited debt and receipt of a debt that is null and void only due to the lack of the prescribed form shall not be considered unjustified enrichment.

(2) Receipt of performance from a game of chance or bet concluded between individuals and receipt of returned money lent into a game of chance or bet shall also not be considered unjustified enrichment; however, these performances can not be claimed before court.

#### § 456

The unjustified enrichment must be given off to the person to whose detriment it was gained. Unless it is possible to identify the person to whose detriment it was gained, the unjustified enrichment must be given off to the state.

#### § 457

If an agreement is null and void or has been cancelled, each party must return to the other party everything that it gained according to the agreement.

#### § 458

(1) The enriched person must give off everything that was gained from the unjustified enrichment. Unless it is possible, particularly if the enrichment consisted of a non-monetary performance, the enriched person must grant a cash compensation.

(2) Unless the enriched person gained the enrichment in good faith, it must give off also proceeds from the unjustified enrichment.

(3) The person who gives off the unjustified enrichment is entitled to a compensation of necessary costs spent for the thing.

#### § 459

If the unjustified enrichment is to be given off by a person who did not act in good faith, the court may decide that the right may be satisfied even from things acquired from the unjustified enrichment even if they are not subject to enforcement of a decision according to provisions of Civil Procedure Code. Until the satisfaction of the right, the debtor must not dispose of such things mentioned in the decision.

## **PART SEVEN SUCCESSION**

### **CHAPTER ONE ACQUISITION OF INHERITANCE**

#### § 460

The inheritance is acquired at the moment of death of the deceased person.

#### § 461

(1) The inheritance may be acquired on the basis of law, on the basis of a will or from both these reasons.

(2) Unless the inheritance is acquired by a heir from the will, the inheritance shall be

acquired by the heirs from the law instead. If the inheritance is acquired from the will only in a part, the rest of the inheritance shall be acquired by the heirs from law.

§ 462

If the inheritance is acquired by no heir, it shall pass to the state.

**Rejection of the inheritance**

§ 463

(1) The heir may reject the inheritance. The rejection must be done either by an oral proclamation before court or by a written proclamation addressed to the court.

(2) A representative of the heir may reject the inheritance in the name of the heir only on the basis of a power that explicitly empowers the representative to do so.

§ 464

The heir may reject the inheritance only within one month from the day when the court notified the heir about the right to reject the inheritance and on consequences of such rejection. For important reasons, the court may prolong this period.

§ 465

The inheritance can not be rejected by a heir whose behaviour manifested that the heir does not want to reject the inheritance.

§ 466

No reservations or conditions may be annexed to the rejection of the inheritance; the inheritance can not be rejected only in part. Such declarations shall not have the effects of rejection of the inheritance.

§ 467

Declaration on rejection of the inheritance can not be recalled. The same rule shall apply if the heir declares that it does not want to reject the inheritance.

§ 468

In discussing the inheritance, the court shall not take account of unknown heir or of an heir of unknown residence who was notified of its right of succession by a judicial decree and did not let the court know about itself within the stipulated period. His or her curator can not submit the declaration on rejection or non-rejection of the inheritance.

**Incapacity to be heir**

§ 469

A person who committed an intentional crime against the deceased person , his or her spouse, children or parents or who committed a condemnable act against the deceased

person's will shall not be heir. However, such person may be heir if the deceased person forgave him or her such deed.

### **Disinheritance**

#### § 469a

(1) The deceased person may disinherit his or her descendant if

- a) the descendant immorally did not provide the deceased person with a due care in sickness, old age or other important cases;
- b) the descendant permanently manifested no proper concern of the deceased person that should be manifested by a descendant;
- c) the descendant was sentenced to an at least one-year imprisonment for an intentional crime;
- d) the descendant permanently lives an inordinate life.

(2) If the disinheritance document explicitly stipulates so, the disinheritance applies even to the persons mentioned in § 473 para. 2.

(3) As for requisites of the disinheritance document and its cancellation, the provisions of § 476 and 480 shall apply analogously; however, the document must contain the reason for disinheritance.

### **Succession of debts**

#### § 470

(1) Up to the sum of the price of the acquired inheritance, the heir shall be liable for adequate expenses connected with the deceased person's burial as well as for the deceased person's debts that passed to the heir at the moment of the deceased person's death.

(2) More heirs shall be liable for expenses of the deceased person's burial and debts according to the proportion of what they acquired from the inheritance to the whole inheritance.

#### § 471

(1) If the inheritance is overindebted, the heirs may agree with the creditors that the inheritance shall be given to the creditors for the purpose of satisfaction of their claims. The court shall approve of this agreement unless it is contrary to law or good manners.

(2) Unless it comes to an agreement between the heirs and the creditors, the heirs' obligation to pay the debts is regulated by the provisions of the Civil Procedure Code related on liquidation of inheritance. The heirs shall not be liable to creditors who did not notify the court about their claims even if they were called up by the court to notify them if the price of the acquired inheritance is exhausted by satisfaction of claims of other creditors.

#### § 472

(1) The state to that the inheritance passed shall be liable for the deceased person's debts and adequate expenses of the burial in the same way as an heir.

(2) Unless it is possible to pay a cash debt wholly or partially from the money belonging to the inheritance, the state may satisfy the claim even from things that belong to the inheritance and whose value corresponds to the sum of the debt. If the creditor rejects to accept these things, the state may propose a liquidation of the inheritance.

CHAPTER TWO  
SUCCESSION BY OPERATION OF LAW  
§ 473

(1) The deceased person's children and spouse inherit in the first group; each of them inherits equal shares.

(2) Unless any of the children is heir, its share shall be acquired by his or her children by equal shares. Unless even these children or any of them are heir, their descendants shall be heirs by equal shares.

§ 474

(1) Unless the deceased person's descendants are heirs, the inheritance shall be acquired in the second group by the deceased person's spouse, parents and those who had lived with the deceased person at least one year before his or her death in a common household and for this reason took care for the common household or were dependent on the deceased person due to maintenance.

(2) The heirs of the second group shall inherit equal shares; however, the deceased person's spouse shall always inherit at least a half of the inheritance.

§ 475

(1) If neither the spouse nor any of the parents are heirs, the inheritance shall be acquired in the third group equally by the deceased person's brother or sister and by those who had lived with the deceased person at least one year before his or her death in a common household and for this reason took care for the common household or were dependent on the deceased person due to maintenance.

(2) Unless any of the deceased person's brothers or sisters is heir, his or her share shall be acquired by his or her children in the same share.

§ 475a

Unless no heir in the third group is heir, the inheritance shall be acquired in the fourth group equally by the deceased person's grandparents and, if none of them is heir, equally by their children.

CHAPTER THREE  
TESTAMENTARY SUCCESSION  
§ 476

(1) The testator may either write the will in his or her own hand or draw it up in another form with the presence of witnesses or in the form of a notarial record.

(2) Every will must contain the day, month and year when it was written; otherwise, it is null and void.

(3) A common will of more testators is invalid.

§ 476a

The will written in the testator's own hand must be written and signed in the testator's own hand; otherwise, it is null and void.

§ 476b

A will not written in the testator's own hand must be signed in the testator's own hand; the testator must be before two simultaneously attending witnesses proclaim that the document contains his or her last will. The witnesses must sign the document.

§ 476c

(1) A testator who is not able to read or write shall express his or her last will before three simultaneously attending witnesses in a document that must be read and signed by the attending witnesses. The testator must confirm before the witnesses that the document contains his or her last will. A witness may even write or read the will; however, the person who wrote the will must not be the reader.

(2) The document must mention the fact that the testator can not read or write, who wrote the document and who read it aloud and in what way the testator confirmed that the document contains his or her true will. The witnesses must sign the document.

§ 476d

(1) The testator may manifest his or her last will in the form of a notarial record; a special act shall stipulate when the manifestation must be done before witnesses.

(2) Minors who have achieved 15 years of age may manifest their last will only in the form of a notarial record.

(3) Blind persons may manifest their will also before three simultaneously attending witnesses in a document that must be read.

(4) Deaf persons who can not read or write may manifest their last will either in the form of a notarial record or before three simultaneously attending witnesses mastering the character tongue in a document that must be interpreted into the character tongue.

(5) The document must mention that the testator can not read or write, who wrote the document and who read it aloud and in what way the testator confirmed that the document contains his or her last will. After the document is written, its content must be interpreted into the character tongue; this fact must also be mentioned in the document. The witnesses must sign the document.

§ 476e

Only persons capable to legal acts may be witnesses. The witnesses must not be blind, deaf, mute, they must know the tongue of the last will and must not be those who are to be heir according to the will.

§ 476f

In drawing up the will, neither a testamentary heir nor a legal heir nor persons close to him or her can be official persons, witnesses, writers, interpreters or readers.

§ 477

(1) In the last will, the testator shall identify the heirs and may also specify their shares or things and rights to be acquired by the heirs. Unless the shares of the heirs are specified in the



will, the shares shall be considered equal.

(2) In the last will, the testator may establish a foundation.

§ 478

Any conditions annexed to the will shall have no legal relevance; the provision of § 484 para. 1 second sentence shall not be affected by this rule.

§ 479

Minor descendants must acquire at least what their legal share is; major descendants must acquire at least what one half of their legal share is. If the will violates this rule, it shall be null and void in this part unless the aforesaid descendants were disinherited.

§ 480

(1) The will shall be cancelled by a valid later will if it is incompatible with the later will or by a recall of the will; the recall must have the form prescribed for the will.

(2) The testator may cancel the will also by destroying the document in that it was written.

CHAPTER FOUR  
CONFIRMATION OF SUCCESSION  
AND SETTLEMENT OF HEIRS

§ 481

If there is only one heir, the court shall confirm that he or she acquired the inheritance.

§ 482

(1) If there are more heirs, they shall mutually settle the inheritance in an agreement.

(2) Unless the agreement is contrary to law or good manners, the court shall confirm it.

§ 483

Unless it comes to an agreement between the heirs, the court shall confirm acquisition of inheritance to those whose succession was proved.

§ 484

The court shall confirm acquisition of the inheritance according to shares. As for succession by operation of law, the heir shall be charged with what he or she acquired gratis from the testator; as for the heir mentioned in § 473 para. 2, the heir shall be also charged with what the heir's ancestor acquired gratis from the testator. In case of the testamentary succession, the collation is to be done if the testator ordered so in the will or if the heir mentioned in § 479 is groundlessly discriminated in the donee's favour.

CHAPTER FIVE  
PROTECTION OF THE LAWFUL HEIR

§ 485

(1) If it appears after discussion of the inheritance that the lawful heir is somebody else, the person who acquired the inheritance shall give off the property from the inheritance to the lawful heir according to the principles of unjustified enrichment so that it has no property benefit to the detriment of the lawful heir.

(2) The unlawful heir shall have the right to demand that the lawful heir compensate the expenses spent for the property from inheritance; it shall also have the right to the proceeds from the inheritance. However, if it knew or must have known that somebody else is the lawful heir, it shall only have the right to compensation of necessary costs and shall also give off the proceeds from the inheritance to the lawful heir.

#### § 486

A person who acquired something in good faith from the unlawful heir to whom the inheritance was confirmed shall be protected as if it was acquired from the lawful heir.

#### § 487

The provisions of § 485 and 486 shall apply also if the inheritance passed to the state.

## **PART EIGHT LAW OF OBLIGATIONS**

### **CHAPTER ONE GENERAL PROVISIONS**

#### Title one

#### § 488

#### **Obligation relationship**

Obligation relationship is defined as a legal relationship from that the creditor is entitled to a performance (a receivable) from the debtor and the debtor is bound to fulfil its obligation.

#### **Rise of an obligation**

#### § 489

Obligations arise from legal acts, in particular from agreements, as well as from caused damages, unjustified enrichment and from other facts mentioned in law.

#### § 490

Rise of agreements by that obligations are established shall be governed by the provisions of § 43 ff. unless this Act further stipulated otherwise.

#### § 491

(1) Obligations arise in particular from agreements explicitly regulated by this Act; however, they may arise also from other agreements not regulated by law (§ 51) and from mixed agreements containing elements of various agreements.

(2) As for obligations arising from agreements not regulated by law, it shall be necessary to apply the provisions regulating obligations most similar to them unless the agreement itself

stipulates otherwise.

(3) As for obligations from a mixed agreement, it shall be necessary to apply the provisions of law regulating obligations established by the agreement unless the agreement itself stipulates otherwise.

#### § 492

The provisions on obligations arising from agreements shall adequately apply to obligations arising on the basis of other facts regulated by law unless there is a special regulation.

#### § 493

The obligation relationship must not be changed without the consent of its parties unless this Act stipulates otherwise.

### **Content of obligations**

#### § 494

A valid obligation binds to debtor to give something, do something, omit something or suffer something and the creditor is entitled to require it from the debtor.

#### § 495

The validity of an obligation is not affected by the fact that the legal ground on the basis of which the debtor is bound to fulfil is not expressed in it. However, the creditor must prove the ground of the obligation except for collectively issued securities or other securities as for which the law stipulates that the creditor shall not have this burden of evidence.

#### § 496

Unless the quality is explicitly agreed, the debtor must provide a certain amount of things of an average mediocre quality.

#### § 497

Each of the parties may contractually stipulate a withdrawal from the agreement and agree on a withdrawal compensation for this case. A person who fulfils the agreement at least partially or who receives at least a partial performance can not withdraw from the agreement even if it provides the other party with the compensation.

#### § 498

What was given by any of the parties before the conclusion of the agreement shall be considered an advancement.

### **Liability for defects**

#### § 499

A person who leaves a thing to someone else for payment shall be liable for that at the moment of the performance, the thing has explicitly stipulated or usual qualities, that it can be

used according to the nature and purpose of the agreement or according to what was agreed by the parties and that the thing has no legal defects.

#### § 500

(1) As for obvious defects or for defects that may be found out from the relevant real estate registration, the claim from the liability for defects can not be vindicated unless the transferring person made the other party sure that the thing is free of any defects.

(2) The transferring person shall be liable for debts connected with the thing.

#### § 501

If a thing is transferred regardless of its quality and quantity, the transferring person shall not be liable for its defects unless the thing has not the quality that the transferring person proclaimed the thing to have or that was explicitly required by the transferee.

#### § 502

(1) An act, its implementing regulation, agreement between the participants or a unilateral proclamation of the transferee may stipulate in what cases the transferring person is liable for defects that occur within the stipulated or agreed period after the performance.

(2) The participants may also agree on liability for defects that occur within the stipulated or agreed period after the performance or liability according to stricter principles that are those stipulated by law. The liable person shall provide the entitled person with a certification about such agreement (letter of guarantee).

#### § 503

If the transferee wants to raise a claim from liability for defects due to the fact that third persons claim a right to the transferred thing, the transferee must let its legal ancestor know about this fact. Unless the transferee does so, it shall not lose its claim from the liability for defects but its legal ancestor may raise against him all objections that were not raised against the third person.

#### § 504

The transferee may raise the claim from liability for defects before court only if it pointed out the defects without undue delay after it was enabled to inspect the thing. The transferee may point out the defect only within six months unless an act stipulates otherwise. The right shall become extinct unless the transferee points out the defect during this period.

#### § 505

As for liability for defects according to § 502, the defect must be pointed out within the stipulated guarantee period.

#### § 506

(1) As soon as the transferee discovers the defect, it shall keep the thing safe for an adequate period of time determined by the transferring person for the purpose of revision of

the defect.

(2) As for a quickly perishable thing, the transferee may sell the thing immediately after notification of the transferring person.

#### § 507

(1) Unless the defect can be rectified and unless the thing can be used due to this defect in the agreed way or properly, the transferee may demand cancellation of the agreement. Otherwise, the transferee may demand either an adequate discount from the price or a rectification or supplementing of what is missing.

(2) Rights following from the liability for defects may be regulated by law or agreed by the participants otherwise in cases of individual types of agreements.

#### § 508

The claim from liability for defects must be raised before court during the general limitation period (§ 101) that shall start running from the day when the transferee pointed out the defects to the transferring person.

#### § 509

(1) The entitled person has the right to compensation of necessary costs that arose in connection with assertion of the right from liability for defects. This right must be raised at the liable person within one month from the lapse of the period during that the defects must be pointed out; otherwise, the right shall become extinct.

(2) The provision of § 508 shall adequately apply to the course of limitation period for assertion of rights before court.

#### § 510

Assertion of rights from the liability for defects shall not exclude the claim to compensation of damages caused by the defect.

### Title two

### Joint obligations and joint rights

#### **Joint obligations**

#### § 511

(1) If a legal regulation stipulates or if the court decided or if the parties agreed or if it follows from the nature of the performance that more debtors must perform the debt to the same creditor jointly and severally, the creditor is entitled to ask any of them for the performance. If one debtor performs the debt, the duty of the others shall be discharged.

(2) Unless a legal regulation stipulates or the court decided or the parties agreed otherwise, the shares of all debtors on the debt are equal. The debtor against whom a higher claim was raised that is the share of this debtor must notify other debtors about this fact without undue delay and enable them to raise their objections against the receivable. The debtor may ask them to perform the debt each according to the respective share or to deprive him of the debt in this extent otherwise.

(3) If the debtor performed the debt in the extent of the raised claim, it may require a

reimbursement from the others according to their shares. Unless any of the debtors can perform its share, this share shall be divided to all others by an equal share.

### **Joint rights**

#### § 512

(1) If the debtor has to perform a divisible the debt to more creditors, any of the creditors may demand only its own share; unless the agreement stipulates otherwise, the debtor is entitled to render the same share to each creditor.

(2) As for an indivisible performance to more creditors, the debtor is entitled to perform to any of the creditors unless the parties agreed on something else. The debt shall be discharged by performing it to one of the creditors. However, the debtor does not have to perform to one of its creditors without the consent of other creditors. Unless all joint creditors agree on the performance, the debtor may deposit the debt in court.

#### § 513

If the debtor is obliged to an equal performance to more creditors that are jointly and severally entitled vis-à-vis him according to law, to a judicial decision or to an agreement, any of the creditors may ask for the whole performance and the debtor must perform the whole debt to the first creditor to ask him for the performance.

#### § 514

If the debtor performed the whole obligation to one of the creditors who are jointly and severally entitled against him, the others can ask him for nothing more.

#### § 515

(1) The relationship between the joint creditors determines whether the creditor who received an indivisible or the whole performance that could have been asked by any of the joint creditors has any duty vis-à-vis the other creditors.

(2) The same rule shall apply if a joint creditor received more than is his share.

### Title three

#### Changes in the content of obligations

### **Agreement of the parties**

#### § 516

(1) The participants may agree on a change in their mutual rights and duties.

(2) Unless the agreement stipulates beyond doubt that the hitherto obligation is to be discharged through an agreement of a new obligation, the new obligation shall arise besides the hitherto obligation if legal requirements of its rise are met.

(3) Security of the rights affected by the agreement shall continue. However, of the agreement was concluded without the consent of guarantor, the guarantor may raise all objections against the creditor that he could raise if the agreement was not concluded.

### **Default of the debtor**

#### § 517

(1) The debtor who fails to perform his debt duly and properly is considered to be in default. If the debtor fails to perform his debt even within an additional adequate period granted by the creditor, the creditor shall be entitled to withdraw from the agreement; as for a divisible performance, the creditor's withdrawal under these conditions may concern even the individual performances.

(2) As for a default with performance of a pecuniary debt, the creditor is entitled to ask the debtor to pay also default interest unless this Act stipulates that the debtor must pay a default charge; the amount of the default interest and default charge shall be stipulated by an implementing regulation.

(3) As for a default with performance of a thing, the debtor is liable for its loss, impairment or destruction unless this damage would have occurred even otherwise.

#### § 518

If the agreement stipulates an exact time of performance and if it follows from the agreement or from the nature of the case that the creditor can not have any interest in the delayed performance, the creditor must notify the debtor without undue delay that he insists on the performance; unless the creditor does so, the agreement shall be cancelled *ex tunc*.

#### § 519

The creditor's right to compensation of damages caused by the debtor's default is not affected; however, in case of default with performance of a pecuniary debt, the compensation of damages can be claimed only if it is not covered by the default interest or default charge.

#### § 520

The debtor's default shall not occur if the creditor fails to accept the debtor's duly and properly performance or if he fails to grant him assistance necessary for performance of the debt. In case of default with performance of a thing, the creditor bears the danger of its loss, destruction or impairment.

#### § 521

If the parties conclude an agreement that a due debt shall be performed in instalments and if the creditor wants the debtor to pay even the default interest in instalments, the agreement must explicitly stipulate so.

### **Default of the creditor**

#### § 522

The creditor is in default if he failed to accept a properly offered performance or failed to grant the debtor assistance necessary to the performance of the debt at the moment of the performance. In such cases, the creditor must particularly give the debtor compensation of all costs that arose due to this default. Furthermore, the danger of a contingent destruction of the thing shall pass to the creditor. The debtor is also entitled to ask the creditor to compensate other damages caused by the default if the creditor can be charged with a fault.

#### § 523

During the creditor's default, the debtor does not have to pay default interest.

Title four  
Change in the person of creditor or debtor

**Assignment of a receivable**

§ 524

(1) The creditor may assign his receivable to another person by a written agreement even without the debtor's consent.

(2) Together with the assigned receivable, also its accessories and all rights connected herewith pass to the assignee.

§ 525

(1) A receivable that is discharged no later than due to the creditor's death or whose content would be changed by the change on the person of creditor can not be assigned. A receivable that can not be affected by the enforcement if a decision can not be assigned.

(2) If the assignment is at variance with the agreement with the debtor, the receivable can not be assigned.

§ 526

(1) The assignor must notify the debtor about the assignment without undue delay. Until the debtor is notified about the assignment or until the assignee proves the assignment to the debtor, the debtor can relieve himself of his obligation by performing it to the assignor.

(2) If the debtor is notified about the assignment by the assignor, the debtor is not entitled to demand that the assignment be proved.

§ 527

(1) If the assignment was concluded for a payment, the assignor is liable to the assignee if

- a) the assignee has not become creditor of the receivable with the agreed content instead of the assignor;

- b) the debtor performed his obligation to the assignor before he had to perform it to the assignee;

- c) the assigned receivable or its part was discharged through setting off a claim of the debtor against the assignor.

(2) The assignor guarantees for recoverability of the assigned receivable only to the sum or the accepted payment with interest only if he has undertaken such obligation in written; however, this guaranty is discharged unless the debtor exacts the assigned receivable against the debtor in court without undue delay.

§ 528

(1) If performance of the assigned receivable is assured by a lien, guaranty or in other way, the assignor must notify the person who granted the assurance about the assignment.

(2) The assignor must provide the assignee with all documents and necessary information concerning the assigned receivable.



## § 529

(1) Objections against the receivable that could be raised by the debtor at the moment of the assignment shall be preserved after the assignment.

(2) The debtor may clear against the assignee his clearable receivables that he had against the assignor when he was notified about the assignment or when the assignment was proved to him (§ 526) if he notified the assignee about them without undue delay. The debtor may clear his receivables even if they were not yet due at the moment of notification or proving of the assignment.

## § 530

(1) Upon the assignee's request, the assignor may exact the assigned claim in his own name to the benefit of the assignee. If the assignment was notified or proved to the debtor (§ 526), the assignor may exact the receivable only if it is not exacted by the assignee and if the assignor proves the assignee's consent to this exaction.

(2) If the assignor exacts the receivable, the debtor may clear his clearable receivables that he has against the assignor at the moment of exaction; the receivables against the assignee can not be cleared in this case.

### **Assumption of debt**

## § 531

(1) A person who compounds with the debtor for assumption of his debt shall become the debtor instead of him if the creditor agrees to it. The consent of the creditor can be given either to the original debtor or to the person who assumed the debt.

(2) A person who assumes the debt through an agreement with the creditor without any agreement with the debtor shall become the debtor besides the original debtor.

(3) The agreement on assumption of the debt must be concluded in writing.

(4) Objections that could be raised against the creditor by the original debtor can be raised also by the person who assumed the debt.

## § 532

Assumption of a debt does not affect the content of the obligation; however, assurance of the debt granted by third persons persists only if these persons agree to the change in person of the debtor.

### **Accession to the obligation**

## § 533

A person who agrees with the creditor in writing on performance of a pecuniary debt for the debtor becomes a debtor besides the original debtor and both debtors are liable jointly and severally. The provision of § 531 para. 4 shall apply analogously.

## § 534

A person who agrees with the debtor to perform his obligation vis-à-vis his creditor must provide the performance to his creditor. However, no direct right shall arise to the creditor from this agreement.

## **Warrant**

### § 535

A warrant entitles the taker to collect the performance at the drawee and the drawee is empowered to give the taker the performance to the drawer's account. The taker shall acquire a direct claim against the drawee only if he receives a manifestation of the drawee's will that the drawee accepts the warrant.

### § 536

(1) If the drawee owes the drawer for what he is to perform, the drawee has a duty to the drawer to accept the warrant. Unless something else is agreed, his obligation shall become extinct only by performing it to the taker according to the warrant. If the warrant is to perform the drawer's obligation to the taker who agreed to it, the taker must call the drawee to give the performance.

(2) If the taker does not want to use the warrant or if the drawee rejects to accept the warrant or to perform according to it, the taker must inform about it the drawer without undue delay.

### § 537

If the drawee accepts a warrant to the taker, the drawee may raise only objections that concern validity of the acceptance or that follow from the content of the warrant or from his own relationships to the taker.

### § 538

(1) Before the drawee accepts the warrant vis-à-vis the taker, the drawer may recall the warrant.

(2) If there is no other legal title between the drawer and the drawee, the legal relationship between the drawer and the drawee shall be governed by the mandate agreement provisions; however, the warrant shall not cease to exist by the drawer's or drawee's death. The issue whether recall of the warrant is effective to the taker shall be governed by the legal relationship between the taker and the drawer.

### § 539

If a limitation period has started to run between the drawer and the taker as for the obligation whose performance is subject to the warrant and if it started to run before the receiver obtained the drawee's notification about acceptance of the warrant, the limitation period shall run since that moment in the relationship between the drawer and the taker.

## **Securities warrant**

### § 540

A money institute may issue to a third person's benefit or to its own a written warrant concerning performance of securities even without stating the legal title of the obligation.

### § 541

- (1) If such warrant is made to order, it may be transferred by endorsing it.
- (2) On the basis of the endorsement, all rights from the warrant shall pass to the person entitled from the endorsement.

#### § 542

- (1) A person who accepts a warrant issued by a money institute must give the performance to the person to whose benefit the warrant was issued or to whom it was transferred.
- (2) The person obliged from the warrant must give the performance only if it is given an acquitted warrant. Against the person entitled from the warrant upon endorsement, the obliged person may raise only objections that follow from the content of the warrant or from its own relationships to the entitled person.

#### § 543

Requirements of acceptance of the endorsement as well as the issue who is entitled from the endorsement and how this entitlement is to be proved shall be governed by bills of exchange and promissory notes regulations. These regulations shall also govern the issue against whom the warrant may be required by the person who lost it.

### Title Five Security for obligations

#### **Conventional fine** § 544

- (1) If a conventional fine is agreed between the parties in case a duty from an agreement is breached, the party who breaches this duty must pay the fine even if the breach of the duty does not result in damage to the entitled party.
- (2) The conventional fine may be agreed only in writing; the agreement must state the sum of the fine or the way the fine shall be calculated.
- (3) The provisions on conventional fine shall apply also to a fine stipulated by a legal regulation for breach of a contractual duty (penalty).

#### § 545

- (1) Unless something else follows from the conventional fine agreement, the debtor must perform the duty whose performance was secured by the conventional fine even if after paying the fine.
- (2) The creditor is not entitled to demand compensation of damage caused by breach of the duty to that the conventional fine applies unless something else follows from the parties' agreement on conventional fine. The creditor may demand compensation of damage exceeding the conventional fine only if it was agreed between the parties.
- (3) Unless something else follows from the agreement, the debtor does not have to pay the conventional fine unless he caused the breach of the duty by his intention or negligence.

#### **Guarantee** § 546

On the basis of an agreement between the parties, a receivable may be secured by a guarantee. The guarantee arises on the basis of a written declaration by that the guarantor undertakes a duty to the creditor to satisfy the receivable unless it is satisfied by the debtor.

#### § 547

The creditor must inform the guarantor at any time and without undue delay about the sum of the receivable.

#### § 548

(1) The guarantor must perform the debt unless debtor performed it even if he was called to it by the creditor in writing.

(2) The guarantor may raise against the creditor all objections that could be raised against the creditor by the debtor.

(3) An acknowledgement of a debt by the debtor is effective against the guarantor only if the guarantor agreed to the acknowledgement.

#### § 549

The guarantor may deny the performance if the creditor caused by its intention or negligence that the receivable can not be performed by the debtor.

#### § 550

A guarantor who performed the debt is entitled to demand that the debtor gives him a reimbursement of the performance given to the creditor.

#### § 551

### **Agreement on deductions from wage or other income**

(1) Satisfaction of a receivable may be secured also by a written agreement between the creditor and the debtor about deduction from wage; the deductions from wage must not exceed the sum that may be deducted in the framework of enforcement proceedings.

(2) The creditor acquires the right to payment of the deducted sums against the payer of the wage as soon as the agreement was submitted to the payer.

(3) The provisions of paragraphs 1 and 2 shall apply also to other income that are treated in the same way as the wage in the framework of enforcement proceeding.

#### § 552

### **Lien agreement**

A receivable may be secured also by a lien agreement. The provisions of the part concerning real rights regulate how a receivable is secured by pledging a thing or a right.

#### § 553

### **Security for obligations by assigning a right**

(1) Performance of an obligation may be secured also by assigning the debtor's right to the creditor.

(2) A security assignment agreement must be concluded in writing.

§ 554

**Security by assigning a receivable**

A receivable may be secured also by assigning a receivable of the debtor or of a third person.

**Warranty**

§ 555

The obligation to give warranty may be performed in particular by establishing a pledge or by solvent guarantors.

§ 556

Nobody has the duty to receive a thing or a right as warranty in the sum exceeding two thirds of their estimated price.

§ 557

Deposits in banks and saving institutes (hereinafter the "money institute") and state securities are a capable warranty in their full price.

§ 558

**Acknowledgement of a debt**

If a person acknowledges in writing that he shall pay his debt specified according to legal title and sum, the debt shall be presumed to have existed at the moment of the acknowledgement. In case of a statute-limited debt, such acknowledgement shall have this consequence only if the acknowledging person knew about its statute limitation.

Title six

Discharge of obligations

**Performance of a debt**

§ 559

(1) A debt shall become extinct by performing it.

(2) A debt must be performed duly and timely.

§ 560

If the parties are to give performance to each other according to the agreement, the performance of the obligation may be demanded only by the party who has already performed his own obligation or who is prepared to perform it. Even the person who must perform in advance may deny his performance until he is given the mutual performance or until the mutual performance is secured if the other party's performance is jeopardised by facts that

occurred to the other party and that were not known to this person at the moment when it concluded the agreement.

#### § 561

(1) If the obligation can be performed in more ways, the debtor shall have the right of choice unless something else was agreed. However, it is impossible to withdraw from a made choice.

(2) If the choice was marred by a contingent destruction of some thing, the party that had the right of choice may withdraw from the agreement.

#### § 562

The debtor shall be deemed to have performed the debt also if he gives the performance to a person who submits the creditor's confirmation that that person is entitled to collect the performance; however, this rule shall not apply if the debtor knew that the person who submitted the confirmation is not entitled to collect the performance.

#### § 563

Unless the due date is agreed, laid down by a legal regulation or specified in a court's decision, the debtor must perform the debt on the first day after he was asked for the performance by the creditor.

#### § 564

If the due date is at the debtor's discretion, it may be determined by a court upon the creditor's petition with regard to circumstances of the case so that it is not at variance with good manners.

#### § 565

In case of a performance in instalments, the creditor may demand performance of the whole receivable due to non-performance of one instalment only if it was agreed or adjudicated in a decision. However, the creditor may exercise this right until the due date of the next instalment.

#### § 566

The creditor must receive also a part of the performance unless it is contrary to the agreement or to the nature of the receivable.

#### § 567

(1) The debt shall be performed in the place specified in the parties' agreement. Unless the place of performance is specified in this way, the place of performance shall be deemed to be the debtor's residence or registered office.

(2) If the debtor performs a money debt through mail or a money institute, the debt shall be deemed to be performed at the moment when the sum was remitted unless something else is agreed.

## § 568

Unless the debtor can perform its obligation to the creditor because that creditor is absent if is in default or if the debtor has reasonable doubts about who it actually the creditor or if the debtor does not know the creditor, the effects of performance of the obligation if the debtor puts its subject into a court's custody. Necessary costs spent in connection therewith shall be born by the creditor.

## § 569

(1) Upon the debtor's request, the creditor must give the debtor a written receipt about that the debt was performed fully or in part.

(2) The debtor is entitled to deny the performance unless the creditor gives him a receipt at the same time.

## **Agreement**

### § 570

(1) If the creditor and the debtor agree that the hitherto obligation shall be replaced with a new one, the hitherto obligation shall become extinct and the debtor must perform the new obligation.

(2) If an obligation established in writing is replaced, the agreement about the new obligation must be concluded in writing. The same rule shall apply is a statute-limited obligation is replaced.

### § 571

The hitherto obligation shall be deemed to be replaced only in the extent that follows beyond all doubts from the agreement about the new obligation.

### § 572

(1) Guarantee and lien securing the extinct obligation shall secure also the obligation that replaces the original obligation. However, if the guarantor or the person against whom the aforesaid rights can be exercised do not express their consent to security of the new obligation, the security shall exist only in the extent of the original obligation and all objections against the hitherto obligations shall remain preserved.

(2) The parties may agree that a non-performed obligation or a part thereof shall be cancelled without establishing a new obligation. Unless something else follows from the agreement, the cancelled obligation shall become extinct when the offer to cancel it was accepted by the other party.

(3) The agreement on cancellation of an obligation must be concluded in writing if it cancels an obligation established in writing.

### § 573

Unless something else explicitly follows from the written agreement about cancellation of an obligation, the other party's obligation shall become extinct at the same time; if it has already been performed, the other party shall have the right to demand that the obligation be returned with interest in case of a money obligation. If the parties agree on cancellation of a

part of the obligation, the other party's obligation shall become extinct in the extent corresponding to the cancelled part of the obligation.

§ 574

(1) The creditor may conclude an agreement with the debtor stating that the creditor waives his right or mitigates the debt; this agreement must be made in writing.

(2) An agreement on the basis of that somebody waives rights that can arise in the future is invalid.

**Impossibility of performance**

§ 575

(1) If the performance becomes impossible, the debtor's duty to perform shall become extinct.

(2) The performance shall not be deemed to be impossible if it can be realised even under aggravated circumstances, with higher costs or after the agreed date.

(3) If the impossibility concerns only a part of the performance, the duty shall become extinct only as for this part; however, the creditor may withdraw from the agreement as for the rest of performance. However, if it follows from the nature of the agreement or from the purpose of the performance that was known to the debtor at the moment of conclusion of the agreement that performance of the rest has no economic relevance for the creditor, the obligation shall become extinct in the whole extent unless the creditor notifies the debtor without undue delay after he learned of the impossibility of the part of performance that he insists on the rest of the performance.

§ 576

If realisation of one of more eligible performances becomes impossible, the obligation shall be restricted to the rest performances. However, if impossibility of this performance was caused by the person that has no right of choice, the other party may withdraw from the agreement.

§ 577

(1) Without undue delay after the debtor learns of the fact that makes the performance impossible, the debtor must inform the creditor about this fact; otherwise, the debtor shall be liable for damage arisen to the creditor due to the fact that he was not timely informed about the impossibility.

(2) The right to demand surrender of unjustified enrichment shall not be affected by this rule.

§ 578

**Lapse of time**

Rights and duties shall become extinct by lapse of the time to that they were limited.

§ 579

**Death of debtor or creditor**



(1) A duty shall not become extinct by the debtor's death unless it concerned a performance that was to be done by the debtor in person.

(2) A right shall become extinct by the creditor's death if it was restricted only to his person; also the right to smart money and to compensation for aggravated social application shall become extinct by the creditor's death.

### **Setting-off** § 580

If the creditor and the debtor have mutual receivables whose performances are of the same kind, they shall become extinct by setting off against each other if they cover each other and if one of the parties expresses its will to the setting-off to the other party. The discharge shall occur at the moment when the receivables capable to be set off met each other.

### § 581

(1) The setting-off is inadmissible against a receivable to compensation of damage caused to health unless the case is a mutual receivable of compensation of damage of the same kind. The setting-off is also not admissible against a receivable that can not be affected by enforcement of a decision.

(2) Statute-limited receivables, receivables not enforceable before court and receivables from deposits can not be set off. A receivable that is not yet due can not be set off against a due receivable.

(3) On the basis of the parties' agreement, also the receivables mentioned in paragraphs 1 and 2 may be settled by setting off.

(4) Setting-off against maintenance receivables is regulated by the Family Act.

### § 582 **Termination**

(1) An agreement concluded for an infinite period of time concerning an obligation to a continuous or repeated activity or an obligation to omit certain activity or to suffer certain activity can be terminated in a three-month termination period ending at the end of a calendar quarter-year unless the way of termination follows from an act or from the agreement.

(2) However, the termination is ineffective as for an obligation to omit certain activity if its nature or the agreement show that that obligation is not limited in time.

### § 583

Extinction of a right due to the fact that it was not exercised in the stipulated period can occur only in cases laid down by law. The court shall take account of the extinction even if the debtor does not raise such objection.

### § 584

If the right and duty (obligation) merge in one person in any way, the right and duty (obligation) shall become extinct unless an act stipulates otherwise.

### **Settlement** § 585

(1) On the basis of a settlement agreement, the parties may regulate rights that are doubtful or in dispute between them. An agreement by that all rights are to be settled between the parties shall not concern rights of that the party could not think.

(2) If the hitherto obligation was established in writing, the settlement agreement must be concluded in writing; the same rule shall apply if the agreement concerns a statute-limited obligation.

(3) The hitherto obligation shall be replaced with an obligation that follows from the settlement.

#### § 586

(1) Error in what is doubtful or in dispute between the parties does not make the settlement agreement null and void. However, if the error was evoked by fraud of one party, the other party may invoke the nullity and voidance.

(2) A settlement concluded in good faith shall not lose validity even if it is subsequently revealed that one of the parties did not have the agreed right at the time of conclusion of the settlement.

#### § 587

Even if the parties declare that the settlement agreement regulates all mutual rights between them, these effects concern only the legal relationship doubtful or in dispute between them unless from the settlement follows beyond all doubt that the settlement concerns also other relationships.

## CHAPTER TWO PURCHASE AND BARTER AGREEMENT

### Title One

#### General provisions on purchase agreement

#### § 588

On the basis of a purchase agreement, the vendor has the duty to give the bought thing to the buyer and the buyer has the duty to take over the bought thing and to pay the vendor the agreed purchase price.

#### § 589

The purchase price must be agreed in accordance with generally binding legal regulations or it shall be null and void according to § 40a.

#### § 590

Unless anything else is agreed, the danger of contingent destruction and contingent impairment of the purchased thing including proceeds shall pass to the buyer together with acquisition of ownership. If the buyer acquires ownership before the purchased thing is given to him, the vendor shall have rights and duties of a custodian.

§ 591

Unless anything else is stipulated or usual, the parties must perform without undue delay. The vendor may deny giving of the purchased thing unless the buyer pays the purchase price timely. If the purchased thing is consigned to the place of performance or destination, the buyer does not have to pay the purchase price until he is enabled to inspect the purchased thing.

§ 592

If the buyer is in default with taking over the thing, the vendor may deposit the purchased thing at the buyer's cost in a public warehouse or at another custodian or may sell it at the buyer's account after notification. The notification is not necessary in case of quickly perishable things if there is no time for the notification.

§ 593

Unless anything else is agreed, the vendor shall bear the costs connected with releasing the purchased thing, in particular costs of measuring, weighing and packing; the buyer shall bear the costs connected with taking over; if the thing is dispatched to a place that is not the performance place, the costs of dispatching shall be born by the buyer.

§ 594

If the vendor is to dispatch the purchased thing to the place of performance or destination, the things shall be deemed to be released at the moment when it was given to transit unless anything else was agreed.

§ 595

A person who buys total future proceeds of a thing or in hope of unsure future proceeds shall be entitled to all proceeds duly exploited. However, the buyer shall bear the loss if his expectation was marred.

§ 596

If the thing has defects about that the vendor is aware, the vendor must inform the buyer about them in the course of negotiation of the purchase agreement.

§ 597

(1) If a defect about that the vendor did not inform the buyer is revealed subsequently, the buyer shall have the right to an adequate discount from the agreed price corresponding to the nature and extent of the defect; if the defect makes the thing useless, the buyer shall also have the right to withdraw from the agreement.

(2) The buyer shall have the right to withdraw from the agreement even if the vendor made him sure that the thing has certain qualities, in particular qualities stipulated by the buyer, or that it has no defects and this statement is revealed to be false.

§ 598

The buyer shall have the right to compensation of necessary costs related to exercise of his rights from liability for defects.

§ 599

(1) The defects must be invoked by the buyer at the vendor without undue delay. The buyer may enforce his rights from liability for defects before court if he pointed out the defects within six months after taking over the thing or, in case of feed-stuffs, within three weeks after taking over the thing or, in case of defects of animals, within six weeks after taking over the thing.

(2) The right to compensation of necessary costs may be enforced by the buyer before court if he informs the vendor about the costs in the period mentioned in paragraph 1.

§ 600

Exercise of rights from liability for defects shall not affect the right to compensation of damage.

Title Two  
Side clauses in a purchase agreement

§ 601

**Retention of title**

If the ownership of a sold movable thing is to pass to the buyer after payment of the purchase price, this retention clause must be agreed in writing. Unless something else follows from the agreement, the danger of contingent destruction or contingent impairment shall pass to the buyer at the moment of releasing the thing.

**Pre-emption right**

§ 602

(1) A person who sells a thing with a reservation that the buyer wanting to sell the thing must offer the thing to him shall have the pre-emption right.

(2) Such right may be agreed also as for other transfer of the thing than on the basis of a sale.

§ 603

(1) The pre-emption right imposes a duty only upon the person who promised to offer the thing to a purchase.

(2) The pre-emption right may be agreed also as a real right that is effective also vis-à-vis legal successors of the buyer. The agreement must be concluded in writing and the pre-emption right shall be acquired by entering it in the Real Estate Cadastre. Unless the vendor bought the thing offered by the buyer, the pre-emption right shall remain preserved even vis-à-vis the legal successor.

(3) If the pre-emption right was violated, the entitled person may either demand that the acquirer offer him the thing to a purchase or his pre-emption right shall remain preserved.

§ 604

The pre-emption right shall not pass to heirs of the entitled person and can not be assigned to another person.

§ 605

Unless the time period within that the thing should be purchased is not agreed, the entitled person must pay the price of a movable thing within eight days and the price of a real estate property within two months after the offer. If this period elapses in vain, the pre-emption right shall become extinct. The offer shall be deemed to be made by giving information about all conditions; in case of a real, estate property, the offer must be made in writing.

§ 606

A person who is entitled to buy a thing must pay the price offered by somebody else unless the parties agreed on something else. Unless the entitled person can buy the thing or unless he can meet the conditions offered beside the price and unless they may be settled by an estimated price, the pre-emption right shall become extinct.

**Right of repurchase**

§ 607

(1) A person who sells a movable thing with reservation that he has a right to demand that the thing be returned within certain period after the purchase against returning of the paid price shall have the right of repurchase.

(2) The repurchase right agreement must be concluded in writing.

§ 608

(1) The right of repurchase must be exercised by the vendor in writing; unless something else is stipulated, within one year after the thing was given to the buyer; otherwise, the right of repurchase shall become extinct.

(2) If the vendor uses the right of repurchase, the buyer must return the thing without undue delay and each party shall have rights and duties that followed to the other party from the original purchase agreement.

§ 609

(1) If the right of repurchase concerns a thing specified in kind, after exercising of this right, the buyer must return a thing of the same kind.

(2) If the right of repurchase concerns a thing specified individually, the buyer must return the same thing that he bought. An agreement on transfer of a thing violating the right of repurchase is null and void.

§ 610

**Other side clauses**

(1) On the basis of a written agreement, the parties may agree also other side clauses having the character of reservations and conditions allowing extinction of the legal relationship based by the purchase agreement.

(2) Unless the parties agreed otherwise, these reservations and conditions shall become

extinct after the lapse of maximally one year after conclusion of the purchase agreement unless they were exercised by the vendor within this period.

Title three  
Barter agreement  
§ 611

The provisions on purchase price shall adequately apply also to an agreement according to that the contracting parties exchange a thing for a thing; as for the thing given by a party according to the agreement, the giving party shall be considered vendor; as for the thing taken over by a party according to the agreement, the taking party shall be considered buyer.

Title four  
Special provisions concerning sale of goods in a shop  
§ 612

If an individual or a legal entity sells goods as a businessman (hereinafter the "vendor") in the framework of his business activity, apart from general provisions on purchase agreement, also the following provisions § 613 to 627 shall apply.

§ 613

Things may be sold also upon an order. The vendor must arrange for the ordered goods within the agreed period and, if no period is agreed, within a period appropriate with regard to all circumstances. If the vendor fails to arrange for the goods, the customer may withdraw from the agreement. The customer's withdrawal from the agreement shall not affect his right to compensation for damage.

§ 614

(1) If the vendor must deliver the thing to a place specified by the buyer according to the agreement or to the nature of the thing, the buyer must take over the thing at the moment when the thing was delivered. In other cases, the buyer must take over the thing at the moment of the sale unless he agrees with the vendor on something else.

(2) Unless the buyer takes over the thing within the period mentioned in paragraph 1, the vendor is entitled to demand a storage charge; the amount of the charge shall be laid down by a special regulation or determined by the agreement between the parties.

(3) Ownership of the purchased thing shall pass to the buyer at the moment when the thing was taken over. In case of a delivery sale, the ownership shall pass to the buyer at the moment when the buyer took over the thing in the place of destination specified by the buyer. In case of a self-service sale, the ownership of the bought thing is transferred at the moment when the price for the chosen goods is paid. Until this moment, the buyer may return the chosen goods to the original place. If the buyer causes damage or destruction of the chosen thing by his intention or negligence before the transfer of the ownership right, he shall be liable for damage according to general provisions of liability for damage.

§ 615

Performances that are usually not provided together with sale of a thing must be agreed on separately.

## **Quality and amount**

### § 616

The sold thing must have a quality, amount, measure and weight required or laid down by legal regulations and must be free of defects; in particular, it must be in accordance with technical norms. In case of perishable food, it is necessary to mark out minimum durability date and, in case of quickly perishable food, the applicability date. If the nature of the thing allows it, the buyer has the right to demand that the thing be checked in his presence or that its operation is shown to him.

### § 617

If special rules are to be kept in using the thing, in particular if the thing is to be used according to directions for use or to a technical norm, the vendor must inform the buyer of such rules unless they are generally known. Unless the vendor fulfils this duty, he must provide the buyer with compensation for damage arisen therefrom.

### § 618

Things having defects that do not impede using the thing for the specified purpose must be sold for lower prices than is the usual price of a faultless thing; the buyer must be reminded of the fact that the thing has a defect and of the nature of the defect unless it is obvious from the nature of the sale.

## **Liability for defects of the sold thing**

### § 619

(1) The vendor shall be liable for defects that the sold thing has at the moment when it was taken over by the buyer. In case of used thing, the vendor shall not be liable for defects arisen due to the use or wear. In case of things sold for a lower price, the vendor shall not be liable for the defect due to that the lower price was agreed on.

(2) Except for quickly perishable things or for used things, the vendor shall be liable of defects that occur during the warranty period after the buyer took over the thing (warranty).

### § 620

(1) The warranty period is six months long; in case of sale of food, the warranty period is eight days long, in case of sale of feed-stuffs, three weeks long and in case of sale of animals, six weeks long. If there is a term of use of the thing marked out on the sold thing, on its cover or in directions attached thereto, the warranty period shall not end before the lapse of this period.

(2) In case of things destined to use for a longer time, special regulations shall lay down a longer than the six-month warranty period. The longer than six-month warranty period may concern even some component of the thing. At the moment of the sale, the vendor must provide the buyer with a letter of warranty marking out the warranty period.

(3) On the basis of a declaration stipulated in the letter of warranty given to the buyer, the vendor may provide a warranty exceeding the extent of the warranty stipulated in this Act. In the letter of warranty, the vendor shall specify conditions and extent of this warranty.

### § 621

Warranty periods shall start running from the moment when the thing was taken over by the vendor. If the bought this is to be set in operation by another businessman than by the vendor, the warranty period shall start running from the day when the things were set in operation if the buyer ordered setting the things in operation within three weeks from taking over the thing and provided a due and timely co-operation necessary for setting the thing in operation.

§ 622

If the defect can be removed, the buyer shall have the right to a free, timely and due removing of the defect. The vendor must remove the defect without undue delay. If the thing has not yet been used, the buyer may demand exchange of the thing instead of removing the defect; if the defect concerns only a component of the thing, the buyer may demand an exchange of the component. The vendor may always exchange the defective thing for a faultless one instead of removing the defect.

§ 623

(1) If the defect can not be removed and prevents a proper use of the thing as a faultless thing, the buyer has the right to an exchange of the thing or to withdraw from the agreement. The same rights shall belong to the buyer if the defects can be removed but the buyer can not use the thing properly due to a repeated occurrence of the defect after the repair or due to a larger number of defects.

(2) In case of other irremovable defects, the buyer shall be entitled to an adequate discount from the price of the thing.

§ 624

If a thing sold for a lower price or a used thing has a defect for that the vendor is liable, the buyer has the right to an adequate discount of the thing instead of the right to an exchange of the thing.

§ 625

Rights ensuing from liability for defects shall be asserted at the vendor where the thing was bought. However, if the letter of warranty specifies another businessman who is to repair the thing and who is located in the vendor's place or in a place closed to the buyer, the buyer shall assert the right to repair at the businessman determined to make to warranty repair. The businessman determined to the repair must repair the thing in a period agreed between the vendor and the buyer at the moment of sale.

§ 626

(1) Rights from liability for defects of a thing to that a warranty period applies shall become extinct unless they were asserted during the warranty period.

(2) Rights from liability for defects of quickly perishable things must be asserted no later than on the day following the purchase and, in case of used things, within six months after their purchase; otherwise, these rights shall become extinct.

§ 627



(1) The period from assertion of the right from liability for damage until the moment when the buyer must take over the thing after its repair shall not be included into the warranty period. The vendor must give the buyer a confirmation about the moment when the right was asserted as well as about the repair and its duration.

(2) If the thing was exchanged, the warranty period shall start running again from the moment when the new thing was taken over. The same rule shall apply to exchange of a component to that a warranty was given.

### CHAPTER THREE DONATION AGREEMENT § 628

(1) On the basis of a donation agreement, the donor gives or promises something free to the donee and the donee receives the gift.

(2) The donation agreement must be concluded in writing if the donation concerns a real estate property or if the movable thing is not given and taken over at the moment of the donation.

(3) A donation agreement according to that the performance is to be given after the donor's death is null and void.

### § 629

At the moment of offering the gift, the donor must remind the donee of defects he is aware of. If the thing has defects of that the donor did not remind the donee, the donee is entitled to return the thing.

### § 630

The donor may demand that the gift be returned if the donee behaves to him or to members of his family in the way that he grossly violates good manners.

### CHAPTER FOUR AGREEMENT FOR WORK

#### Title one General provisions § 631

On the basis of an agreement for work, the person from whom a work was ordered (the maker of the work) undertakes the obligation to execute it for the agreed price at his own risk.

### § 632

Unless the work is executed while the customer waits, the maker must give the customer a written receipt confirming that the order was taken over. The receipt must contain identification of the work, its extent, quality, price for execution of the work and the period of its execution.

### § 633

(1) The maker must execute the work according to the agreement, duly and within the agreed period. If execution of the work is regulated by a binding technical norm, the execution must correspond to this norm.

(2) The issue whether the maker must execute the work in person or whether he is entitled to have the work executed at his liability shall be governed by the content of the agreement or of the nature of the work.

#### § 634

(1) Unless the price of work is agreed by the agreement or laid down by special regulations, it is necessary to give an adequate price.

(2) Unless something else is agreed, the price shall be paid after the work is finished. However, if the work is executed by parts or if the execution of the work requires considerable costs, the person from whom the work was ordered shall be entitled to demand that the customer give an adequate prepayment in the course of execution of the work.

#### § 635

(1) If the price was agreed according to a budget, it must not be increased without the customer's consent. Works and costs not included to the budget may be charged only if they were approved by the customer in writing or if he ordered the works additionally in writing.

(2) If a price regulation according to that the price was agreed was changed during the period between the conclusion of the agreement and its performance, the maker must inform the customer about it in writing without undue delay and notify the new price.

(3) After being notified about the new price, the customer may withdraw from the agreement; unless he withdraws from the agreement without undue delay, he must pay the maker the new price unless the price was increased after the lapse of the agreed period of execution.

(4) If the customer withdraws from the agreement, the customer must pay the maker a sum falling to the performed work and to the arisen costs according to the originally agreed price only if he got a property benefit from the partial performance of the agreement.

#### § 636

(1) Unless the price can be agreed on in a fixed sum at the moment of conclusion of the agreement, the price must be determined at least by way of estimate. If the maker subsequently learns that the estimated price must be essentially exceeded, the maker must inform the customer of it in writing without a delay and notify him about the newly determined price; otherwise, the maker shall have no right to payment of the price difference.

(2) After being informed about the newly determined price, the customer may withdraw from the agreement; if the customer withdraws from the agreement, he must pay the maker the sum falling to the performed work and the arisen costs according to the originally determined price; however, the customer shall have this duty only if he got a property benefit from the partial performance. Withdrawing from the agreement shall not affect the customer's right to compensation for damages.

(3) Unless the customer withdraws from the agreement without undue delay, the customer must pay for the provided service the newly determined higher price.

#### § 637

(1) If the material delivered by the customer has defects making a proper performance of the work impossible, the maker must inform the customer of it without undue delay. The same rule shall apply, if the customer requires that the work be performed according to unsuitable instructions.

(2) If the customer insists on the order despite the maker's notification, the maker may withdraw from the agreement.

#### § 638

(1) If performance of the work requires the customer's co-operation, the maker may specify an adequate time period thereto; after a vain lapse of this period, the maker may withdraw from the agreement if he reminds the customer of such consequence.

(2) The same rule shall apply if the work is performed at the customer's place and the customer does not take necessary health and security measures for the persons performing the work.

#### § 639

If the customer provides a due and timely co-operation and the maker does not start performing the work at the determined moment, the customer shall have the right to compensation for necessary costs connected therewith. The customer must assert this right with the maker within one month after taking over the things; if the customer withdraws from the agreement for this reason, he must assert this right within one month after withdrawing from the agreement; otherwise, the right shall become extinct.

#### § 640

If the work was marred by chance before the lapse of the due date, the maker shall lose his right to remuneration.

#### § 641

(1) Even if the work was not performed, the maker shall have the right to the agreed price if he was ready to perform it and if he was prevented from performing the work by circumstances on the customer's side. However, the maker must admit setting off what he saved due to the fact that the work was not performed, what he earned in another way or what he intentionally missed to earn.

(2) If the maker was delayed with performing of the work due to circumstances at the customer's side, the maker shall be entitled to an adequate compensation.

#### § 642

(1) Until finishing the work, the customer may withdraw from the agreement; however, he must pay the maker the sum falling to works already executed unless the maker can use their result in another way and provide him with reimbursement of purposefully spent costs.

(2) The customer may withdraw from the agreement even if it is obvious that the work will not be timely finished or that it will not be executed duly and if the maker does not see to a remedy even within an adequate provided period.

#### § 643

(1) If performance of the work is based on the maker's special personal qualities, the agreement shall be cancelled at the moment of the maker's death. The maker's heirs may demand only payment of the useful material prepared for the work and of the part of the remuneration adequate to useful results of the executed work.

(2) The customer's death itself shall not cancel the agreement.

Title two  
Special provisions on making a thing upon order  
§ 644

In case of making a thing upon order, the customer shall have the right to demand that the maker makes a thing according to his order and the duty to pay the maker a price for making the thing.

§ 645

(1) The maker shall be liable for defects that the thing made upon order has at the moment when it was taken over by the customer as well as for defects that occur during a warranty period after taking over of the thing. Analogously, the maker shall be liable for that the thing has qualities stipulated for by the customer in the order.

(2) The maker shall be liable for defects of the performed order caused by defects of the material delivered by the customer or by unsuitability of his instructions unless he reminded the customer of defects of the materials or of unsuitability of his instructions.

§ 646

(1) The warranty period shall be six months long.

(2) In case of things destined to use for a longer time, special regulations lay down a warranty period longer than six months; the warranty period exceeding six months may concern also a component. The maker must give the customer a letter of warranty with the warranty period marked out.

(3) In case of making a building, the warranty period shall be three years long. An implementing regulation may stipulate that in case of some components of buildings, the warranty period may be shorter but at least eighteen months.

§ 647

The warranty period shall start running from the day when the thing was taken over. If the customer took over the thing after the day until that he had to take it over, the warranty period shall running from the day when the customer had such duty.

§ 648

(1) As for a defect that can be removed, the customer may demand a free removing of the defect. The maker must remove the defect without undue delay.

(2) In case of a defect that can not be removed and that makes a proper use of the thing according to an order as a faultless thing impossible, the customer shall have the right to cancellation of the agreement. The same right shall apply in case of removable defects if he can not use the thing properly due to their repeated occurrence after the repair or due to a large number of the defects. In case of an irremovable defect that does not make a proper use

of the thing according to the order impossible, the customer shall have the right to an adequate discount.

#### § 649

Rights ensuing from liability for defects must be asserted at the maker during the warranty period; otherwise, they shall become extinct. The time from assertion of the warranty right to finishing of the repair shall not be included into the warranty period. The maker must give the customer a receipt confirming about when the right was asserted and about execution of the repair and about its duration.

#### § 650

(1) The customer must take over the thing within one month after the lapse of the time during that the thing was to be made; if the thing was made later, within one month from the moment when it was made. Unless the customer does so, he must pay the agreed storage charge.

(2) After the lapse of six months from the day when the thing was made, the maker may freely dispose of the thing. If he fails to sell the thing or to dispose of it in another useful way, the maker shall be entitled to demand that the customer pay him the price of making the thing. The customer has the right to returning of the price for used material delivered by him for the purpose of making the thing. In case of a building, the maker has always the right to payment of the price for the made building.

#### § 651

If a building is made for the customer upon an order, the maker is liable for damage to or destruction of the building until the moment when the finished building was taken over unless the damage occurs even otherwise.

### Title three

#### Special provisions concerning agreement on repair or adjustment of a thing

#### § 652

(1) In case of a repair or adjustment of a thing, the customer shall have the right to demand that the maker make a repair or adjustment of a thing according to his order; the maker shall have the right to demand that the customer pay him a price for the repair or adjustment of the thing.

(2) The repair of a thing shall be defined as an activity aimed to remove defects of a thing, consequences of a damage thereto or effects of its wear. The adjustment of a thing shall be defined as an activity aimed to change the surface of the thing or its qualities.

#### § 653

(1) The maker shall be liable for defects of the made repair or adjustment at the moment when the thing was taken over by the customer as well as for defects that occur after that moment during the warranty period.

(2) The maker shall be liable also for the defects caused by a quality of the thing to be repaired or adjusted or by unsuitability of the customer's instructions unless he reminded him of the defects of the thing or unsuitability of the instructions.

§ 654

(1) The warranty period shall be three months long unless a different period is agreed or laid down by special regulations; in case of building works, the warranty period shall be at least eighteen months long.

(2) If the thing is repaired or adjusted in order to allow a further use of the thing for a longer time, special regulations shall lay down a longer than three-month warranty period for repair or adjustment of the thing unless the parties agreed on something else. The warranty period exceeding three months may concern also a component of the thing. The maker must give the customer a letter of warranty with the warranty period marked out.

(3) On the basis of a declaration in the letter of warranty given to the customer, the maker may provide a warranty exceeding the scope of warranty laid down in this Act. In the letter of warranty, the maker shall determine conditions and scope of this warranty.

§ 655

(1) If the thing is repaired or adjusted defectively, the customer shall have a right to a free removal of the defect. The maker must remove the defect within the agreed period. Unless the defect can be removed or unless the maker removed it within the agreed period or if the defect occurs again, the customer shall have the right to cancellation of the agreement or to an adequate reduction of the price of the repair or adjustment.

(2) The rights ensuing from the liability for defects must be asserted at the maker during the warranty period or they shall become extinct. The period from assertion of the right to execution of the repair or adjustment shall not be included into the warranty period. The maker must give the customer a receipt about the moment when the right was asserted, about execution of the repair or adjustment and about their duration.

§ 656

(1) The customer must take the thing within one month after the lapse of the time period during that the repair or adjustment were to be executed; if they were executed later, within one month after a notification about their execution. Unless the customer does so, he must pay a storage charge.

(2) Unless the customer takes the thing within six months from the day when he had to do so, the maker shall have the right to sell the thing. If the maker knows the customer's address and if the case is a more worthy thing, the maker must first inform the customer of the intended sale and provide him with an additional period for taking the thing.

(3) If the thing is sold, the maker shall pay the customer the proceeds of the sale after deducting the price of the repair or adjustment, of the storage charge and of costs of the sale. The customer must assert the right to proceeds of the sale at the maker.

CHAPTER FIVE  
LOAN AGREEMENT

§ 657

On the basis of a loan agreement, the creditor gives the debtor things specified in kind, in particular money, and the debtor undertakes the obligation to return things of the same kind after the lapse of the agreed period.

§ 658

- (1) In case of a money loan, the parties may agree on interest.
- (2) In case of an in-kind loan, instead of agreeing on interest, the parties may agree on a performance of an adequately larger amount or of things of better qualities usually of the same kind.

CHAPTER SIX  
COMMODATUM AGREEMENT  
§ 659

On the basis of a commodatum agreement, the borrowing person shall be entitled to a free use of a thing for the agreed time.

§ 660

The lending person must give the borrowing person the thing in a state making a proper use of the thing possible. The provision of § 617 shall adequately apply also to the use of the thing.

§ 661

(1) The borrowing person may use the thing properly and in accordance with the purpose that was agreed in the agreement or to that the thing usually serves; he must protect the thing against damage, loss or destruction.

(2) Unless the parties agreed on something else, the borrowing person must not give the thing to somebody else's use.

§ 662

(1) The borrowing person must return the thing as soon as he does not need it but no later than at the end of the agreed commodatum period.

(2) The lending person may ask for returning of the thing even before the stipulated commodatum period unless the borrowing person uses the thing properly or if he uses it at variance with the purpose to that the thing serves.

CHAPTER SEVEN  
LEASE AGREEMENT

Title one  
General provisions  
§ 663

On the basis of a lease agreement, the lessor gives the lessee a thing against payment and allows him to use it or take proceeds from it temporarily (for the agreed period of time).

§ 664

The lessor must give the leased thing to the lessee in a state making an agreed way of use possible; unless the way of use was agreed, in a state making a usual use possible; the lessor must keep the thing in this state at his own costs.

#### § 665

(1) The lessee shall be entitled to use the thing in a way stipulated in the agreement; unless something else was agreed, the lessee must use the thing in a way adequate to the nature and destination of the thing. The lessor may demand access to the thing in order to control whether the lessee uses the thing in a proper way.

(2) The lessee has an obligation to use the thing only if the parties agreed so or if the thing could be impaired by not being used more than by being used.

#### § 666

(1) The lessee may sub-lease the thing unless the agreement stipulates otherwise.

(2) If the lessee sub-leases the thing at variance with the agreement, the lessor may withdraw from the agreement.

#### § 667

(1) The lessee may modify the leased thing only upon the lessor's consent. The lessee may require reimbursement of costs connected therewith only if the lessor undertook to provide such reimbursement. Unless the agreement stipulates otherwise, the lessee may require reimbursement of the costs after the termination of the lease after deducting depreciation the modifications occurred meanwhile due to use of the thing. If the lessor gave his consent to the modification but did not undertake to reimburse the costs, the lessee may after termination of the lease require an equivalent of by what the value of the thing was increased.

(2) If the lessee modifies the thing without the lessor's consent, the lessee must reset the thing at his own costs after termination of the lease. If a considerable danger threatens to the lessor due to the modifications that are being made, the lessor may withdraw from the agreement.

#### § 668

(1) The lessee must inform the lessor without undue delay of necessity of repairs that are to be made by the lessor. If the lessee violates this duty, he shall be liable for the damage caused thereby and shall have not the rights that he would otherwise have due to impossibility or limited possibility of use of the thing as for the defects that were not timely notified to the lessor.

(2) The lessee must admit restrictions of use of the leased thing in the scope necessary for making repairs and maintenance of the thing.

#### § 669

If the lessee spent costs on repair of the thing that was to be made by the lessor, the lessee shall have the right to reimbursement of these costs if the repair was made with the lessor's consent or if the lessor did not see to the repair without undue delay even if he was informed about the necessity of such repair. Otherwise, the lessee may demand only by what the lessor was enriched.

#### § 670



The lessee must see to it that the thing is not damaged. The lessee must have the thing insured if the agreement stipulates so.

Title two  
Rent  
§ 671

(1) The lessee must pay the rent in accordance with the agreement; otherwise, the lessee must pay a rent that is usual at the moment of conclusion of the agreement with respect to the value of the leased thing and to the way the thing is used.

(2) Unless something else is agreed or stipulated by special regulations, the rent from agricultural and forest lands shall be paid back for the elapsed half year on April 1 and October 1; in case of other kinds of lease, the rent shall be paid monthly back for the elapsed month.

§ 672

(1) As a security for the rent, the lessor of a real estate property shall have a pledge to movable things located in the leased thing and owned by the lessee or by the persons living with him in the common household except for things excluded from enforcement of a decision.

(2) The pledge shall become extinct if the things are removed before they were drawn up by the judicial executor unless they were removed upon an official command and the lessor files his claims with the court within eight days after the execution. If the lessee is moving away or if the things are being removed even if the rent is not paid or secured, the lessor may retain the things at his own risk; however, within eight days, he must ask for drawing up of the things by the judicial executor or he must surrender the things.

§ 673

The lessee does not have to pay the rent if defects of the thing that were not caused by caused that he could not use the thing in the agreed way or, unless the way of use was agreed, in the way adequate to the nature and destination of the thing or if he could not achieve any product in case of lease of agricultural or forest lands for the aforesaid reasons.

§ 674

If the lessee can use the leased thing for the reasons mentioned in § 673 only in a limited extent or if the product of the leased agricultural or forest lands dropped under a half of the usual product, the lessee shall have the right to an adequate rent rebate. However, the lessor must set off the costs he saved and the price of advantages arisen due to the fact that the lessee used the thing only in a limited extent.

§ 675

The right to mitigation of the rent or to provision of the rent rebate must be asserted at the lessor without undue delay. The right shall become extinct unless it was asserted within six months from the day when the facts basing this right occurred.

Title three  
Expiration of the lease  
§ 676

(1) The lease shall end after the lapse of the period for that it was concluded unless the lessor and the lessee agree on something else.

(2) If the lessee uses the things even after expiration of the lease and if the lessor files no petition for surrender of the things or for evacuation of the real estate against the lessee with the court within thirty days, the lease agreement shall be renewed under the same circumstances under that it was originally concluded. A lease concluded for a period longer than one year shall always be renewed for one year, a lease concluded for a shorter period shall be renewed for this period.

§ 677

(1) If the lessor and the lessee did not agree on something else, a lease agreement concluded for an infinite period of time can be cancelled only on the basis of termination.

(2) In case of lease of lands included in the agricultural land fund or in the forest land fund,<sup>5</sup> the lease agreement can be terminated in a one-year termination period to October 1 of the current year; in case of lease of other real estate property, in a three-month period; in case of lease of movable things, in a one-month period.

§ 678

The provisions concerning the termination period, evacuation and giving over shall apply only unless something else is stipulated in the agreement or laid down by special regulations.

§ 679

(1) The lessee may withdraw from the agreement at any time if the leased thing was given over in a state making the agreed or usual way of use impossible or if the thing subsequently becomes unfit for the agreed or usual way of use even if the lessee did not breach his duties; the lessee may also withdraw from the agreement if the thing becomes unserviceable or if the lessee is deprived of such part of the thing that the purpose of the agreement is frustrated due to that.

(2) If the premises leased for accommodation or for stay of people are detrimental to health, the lessee may withdraw from the agreement even if he knew of that at the moment of conclusion of the agreement. Nobody can waive the right to withdraw from the agreement in advance.

(3) The lessor may withdraw from the agreement at any time if the lessee despite a written warning uses the leased thing or admits use of the leased thing in a way resulting in rise of damage or in danger of a considerable damage to the lessor. Except for a flat or a non-residential premise, the lessor may withdraw from the agreement also if the lessee despite a reminder does not pay a due rent until the due date of the next rent or within three months if the due period of the next rent is shorter than three months or if the leased thing must be evacuated on the basis of a final and conclusive decision of the competent authority.

§ 680

(1) If the leased thing is destroyed, the lease agreement is cancelled.

(2) If ownership of the leased thing is changed, the acquirer shall enter the legal position of the lessor; the lessee may relieve himself of his obligations to the former owner as soon as he is informed about the change of ownership or as soon as the acquirer provides him with a proof of such change.

(3) In case of change of ownership to a real estate property, only the lessee may terminate the lease agreement for this reason even if the agreement was concluded for a definite period of time; however, the lessee must terminate the agreement in the nearest termination period if such period is stipulated by the agreement or laid down by law. In case of change of ownership of a movable thing, the lease agreement may be terminated also by the acquirer.

#### § 681

After filing of the termination or during three months before the end of the lease and giving over of the thing, the lessee of a real estate property must allow a person interested in lease to inspect the thing in attendance of the lessor or his representative. The lessee must not be unduly bothered by the inspection.

#### § 682

If the lease expires, the lessee must return the leased thing in a state corresponding to the agreed way of use of the thing; unless the way of use was explicitly agreed, the lessee must return the thing in the state in that he took it over with respect to usual wear.

#### § 683

(1) If damage or inadequate wear of the leased thing occurred as a result of its abuse, the lessee shall be liable even for damages caused by persons who were allowed by him to access the thing; however, the lessor shall not be liable for chance.

(2) The damage can be claimed within six months after the leased thing was returned; otherwise, the claim shall become extinct.

#### § 684

If a third person vindicates rights to the leased thing that are incompatible with the lessee's rights, the lessor must take necessary legal measures for his protection. Unless the lessor does so in an adequate period or if his measures are unsuccessful, the lessee may withdraw from the agreement.

### Title four

#### Special provisions concerning lease of a flat

#### § 685

(1) Lease of a flat arises on the basis of a lease agreement by which the lessor lets a lessee use a flat for rent for a definite period of time or without specification of the period of use. Lease of a flat shall be protected; the lessor may terminate it for reasons laid down by law.

(2) A lease agreement concerning lease of a co-operative flat may be concluded under conditions laid down in by-laws of the housing co-operative.

(3) Acts of national councils shall lay down legal definitions of the service flat, the flat of special purpose and the flat in houses of special purpose and under what conditions agreement

on lease of service flat, flat of special purpose and flat in houses of special purpose can be concluded.

#### § 686

(1) The lease agreement must contain identification of the flat, its accessories, scope of their use and the way of calculation of the rent and of reimbursement for performances connected with use of the flat or their sum. The lease agreement must be concluded in writing.

(2) Unless the period of lease is agreed, the lease agreement shall be presumed to be concluded for an infinite period of time.

#### **Rights and duties from lease of a flat**

#### § 687

(1) The lessor must give the flat over to the lessee in a state making a proper use possible and see to it that the lessee may exercise the rights connected with use of the flat fully and without any disturbance.

(2) Unless the lease agreement stipulates otherwise, small repairs in the flat connected with the use thereof and costs connected with usual maintenance shall be covered by the lessee. A special regulation shall lay down the concept of small repairs and costs connected with usual maintenance of the flat.

(3) Rights and duties of the lessee - member of the co-operative - concerning performance of small repairs in the flat and reimbursement of costs connected with usual maintenance of the flat shall be laid down by the by-laws of the co-operative.

#### § 688

The lessee of the flat and persons living with him in the common household shall also have the right to use common premises and facilities of the house as well as enjoy performance whose provision is connected with use of the flat.

#### § 689

The lessee must use the flat, common premises and facilities of the house in a proper way and must duly enjoy the performances whose provision is connected with use of the leased flat.

#### § 690

In exercising their rights, the lessees must see to creation of a neighbourhood in the house that enables other lessees to exercise their rights.

#### § 691

If the lessor fails to fulfil his duty to remove defects making proper use of the flat impossible or jeopardising exercise of the lessee's right, the lessee shall, after a prior notice to the lessor, have the right to remove the defects in a necessary scope and ask the lessor of reimbursement of purposefully spent costs. The right shall become extinct unless it was asserted within six months after removal of the defects.

## § 692

(1) The lessee must inform the lessor without undue delay of the necessity of repairs that are to be made by the lessor and enable him to realise them; otherwise, the lessee shall be liable for the damage arisen as a result of violation of this duty.

(2) Unless the lessee sees to a timely realisation of small repairs and usual maintenance of the flat, the lessor shall, after a prior notice to the lessee, have the right to do so on his own and at his own costs and ask the lessee of a reimbursement.

(3) After a prior written appeal, the lessee must enable the lessor or a person empowered by the lessor to install and maintain of facilities for measuring and regulation of heat, cold and warm water and to read the measured values. Analogously, the lessee must admit access to other technical facilities if they are a part of the flat and belong to the lessor.

## § 693

The lessee must remove defects and impairments caused by him or by those who stay with him. If the lessee fails to do so, the lessor shall, after a prior notice, have the right to remove the defects and impairments and ask the lessee of a reimbursement.

## § 694

The lessee must not carry out building modifications or other essential change in the flat without the lessor's consent even if he carries them out at his own costs. In case of violation of this duty, the lessor shall be entitled to demand that the lessee remove the carried out modifications and changes without undue delay.

## § 695

The lessor may carry out building modifications and other essential changes in the flat only with the lessee's consent. This consent may be denied only for serious reasons. If the lessor carries out such modifications upon a command of the competent authority of state administration, the lessee must allow their realisation; otherwise, the lessee shall be liable for damage arisen as a result of violation of this duty.

### **Rent and reimbursement of performances provided with the use of flat**

## § 696

(1) The way of calculation of rent and of reimbursement of performances provided with use of the flat, the way of their payment and cases when the lessor may unilaterally increase the rent, reimbursement of performances provided with the use of flat and change other circumstances of the lease agreement shall be laid down by a special legal regulation.

(2) The reimbursement of performances provided with the use of flat or a prepayment therefor shall be paid together with the rent unless something else is agreed by the parties or laid down by a legal regulation.

## § 697

Unless the lessee pays the rent and the reimbursement of performances provided with the use of flat within five days after their due date, the lessee must pay the lessor a default charge.

§ 698

(1) The lessee shall have the right to an adequate rent rebate unless the lessor despite his notice removes a defect of the flat or house that essentially or for a longer time aggravates their use. The lessee shall have the right to an adequate rent rebate also if the performances connected with the use of flat were not provided or were provided in a defective way and if use of the flat was aggravated as a result of that fact.

(2) The lessee shall have the same right if conditions of use of the flat or house were essentially or for a longer period of time worsened due to building modifications of the house.

(3) The lessee shall have the right to an adequate discount from reimbursement of performances provided with the use of flat unless the lessor provides them duly and timely.

§ 699

The right to a rent rebate or to discount from reimbursement of performances provided with the use of flat must be asserted against the lessor without undue delay. The right shall become extinct unless it was asserted within six months after removal of the defects.

**Joint lease of a flat**

§ 700

(1) A flat may be jointly leased by more persons. The joint lessees shall have the same rights and duties.

(2) The joint lease shall arise also on the basis of an agreement between the hitherto lessee, another person and the lessor.

(3) Joint lease of a co-operative flat can arise only between spouses.

§ 701

(1) Usual affairs concerning the joint lease of the flat may be arranged for by each of the joint lessees. Arranging for other affairs requires consent of all lessees or the legal act is null and void.

(2) Legal acts concerning joint lease of a flat shall entitle and bind all joint lessors jointly and severally.

§ 702

(1) If the joint lessees are unable to agree on rights and duties following from the joint lease of the flat, the dispute shall be decided by a court upon a petition of any of them.

(2) In cases worth special regard, the court may upon a petition of a joint lessee cancel the right of joint lease of a flat if it came to rise of a state barring joint use of the flat by joint lessors and if such state was not caused by the petitioner. At the same time, the court shall determine who of the joint lessees shall go on using the flat.

**Joint lease of a flat by spouses**

§ 703

(1) If both spouses or one of them become lessors of a flat during the existence of marriage, it shall come to rise of a joint lease of the flat by spouses.

(2) If the right to conclude a lease agreement concerning a co-operative flat arises only to

one spouse during the existence of marriage, it shall come not only to rise of joint lease of the flat by spouses but also to rise of a joint membership of spouses in the co-operative; both spouses shall be jointly and severally entitled and bound from this membership.

(3) The provision of paragraphs 1 and 2 shall not apply if the spouses do not permanently live with each other.

#### § 704

(1) If one of the spouses became lessor of the flat before entering into marriage, the spouses shall become joint lessees of the flat at the moment of entering into marriage.

(2) The same rule shall apply if a right to conclude a lease agreement to a co-operative flat arose to one of the spouses before entering into marriage.

#### § 705

(1) Unless divorced spouses are able to agree on the lease of their flat, the court shall decide upon a petition of any of them that the right of joint lease of the flat is cancelled. At the same time, the court shall decide who of the spouses shall go on using the flat as a lessee.

(2) If one of the divorced spouses acquired the right to conclude a lease agreement to a co-operative flat before entering into marriage, the right of joint lease of the flat shall become extinct at the moment of divorce; the flat shall be further used by the spouse who acquired the right to the lease of flat before entering into marriage. In other cases of joint lease of a co-operative flat, the court shall, unless the spouses are able to agree, decide upon petition of one of them on cancellation of this right and on who of them shall go on being lessee of the flat as a member of the co-operative; at the same moment, also the joint membership of the spouses in the co-operative shall cease to exist.

(3) In deciding on further lease of the flat, the court shall particularly take account of interests of minor children and of the lessor's opinion.

### **Devolution of lease of a flat**

#### § 706

(1) If the lessee dies and the case is not joint lease of the flat by spouses, the lease shall pass to his children, grandchildren, parents, brothers and sisters, son-in-law and daughter-in-law who prove that they lived with him in a common household at the moment of his death and have no own flat. The lease shall pass also to those who cared for the common household of the dead lessee and were thrown upon him as for the maintenance if they prove that they have lived with him in a common household at least for three years before his death and have no own flat.

(2) If the lessee of a co-operative flat dies and the case is not a flat in joint lease of spouses, the membership in the co-operative and lease of the flat shall pass at the moment of the lessee's death to the heir who inherited the membership share.

#### § 707

(1) In case of death of one of spouses who were joint lessees of a flat, the survivor spouse shall become a single lessee of the flat.

(2) As for a co-operative flat, the joint lease of the flat by spouses shall become extinct at the moment of death of one of the spouses. If the right to the co-operative flat was acquired during the existence of marriage, the survivor spouse shall remain member of the co-operative

and shall inherit the membership share; the court shall take account of it in inheritance proceedings. In case of death of the spouse who acquire the right to the co-operative flat before entering into marriage, the membership in the co-operative and the lease of the co-operative flat shall at the moment of his death pass to the heir who inherited the member's share. If more flats are leased, the deceased person's membership may pass to more heirs.

(3) If one of joint lessees dies, his right shall pass to the other joint lessees.

#### § 708

The provisions of § 706 para. 1 and § 707 para. 1 shall apply also if the lessee leaves the common household forever.

#### § 709

The provisions of § 703 to 708 shall not apply to service flats, flats of special purpose and flats in houses of special purpose.

### **Expiration of a lease of flat**

#### § 710

(1) The lease of a flat shall expire on the basis of a written agreement between the lessor and the lessee or of a written termination.

(2) If the lease of flat was concluded for a definite period of time, it shall also expire after the lapse of this period.

(3) The written termination must specify the period during that the lease is to expire; this period must not be shorter than three months so that it ends at the end of a calendar month.

#### § 711

(1) The lessor may terminate the lease of flat only with the consent of court and only for the reasons as follows:

- a) if the lessor needs the flat for himself, for his spouse, children, grandchildren, son-in-law or daughter-in-law, parents and brothers and sisters;
- b) if the lessee stopped executing work for the lessor and the lessor needs the service flat for another lessee who will work for him;
- c) if the lessee or those who stay with him grossly violate good manners in the house despite a written warning;
- d) if the lessee grossly violates his duties following from the lease of flat in particular by not paying the rent or reimbursement for performance provided with use of the flat for more than three months;
- e) if, with regard to public interest, it is necessary to treat the flat or house in a way making their use impossible or if the flat or house require repairs due to whose execution the flat or house can not be used for a longer period of time;
- f) as for a flat whose construction is connected with premises designated to operation of trade or other business activity and the lessor or owner of these non-residential premises wants to use the flat;
- g) if the lessee has two or more flats unless it is not fair to demand that he use only one flat;
- h) if the lessee does not use the flat without serious reasons or if he uses it only occasionally without having serious reasons therefor;
- i) if the case is a flat of special purpose or a flat in a house of special purpose and the lessee is



not a handicapped person.

(2) If the court gives consent to the termination of the lease of flat, the court shall simultaneously decide on what day the lease relationship shall expire; in doing so, the court shall take account of the period of notice (§ 710). The termination shall start running from the first day of the calendar month following the legal force of the judgement. At the same time, the court shall decide that the lessee must evacuate the flat within 15 days after the lapse of the termination period. If the lessee has a right to a compensatory flat (compensatory accommodation), the court shall decide that the lessee must evacuate the flat within 15 days after the compensatory flat is secured and, if it is sufficient to give a compensatory accommodation, within 15 days after the compensatory accommodation is given.

(3) If the court gives consent to the termination for reasons mentioned in letters a), b), c) and f), the court may in justified cases order that the lessor must reimburse the lessee moving expenses determined by the court.

(4) In case of flat of special purpose or flat in a house of special purpose, the lease can be terminated according to paragraph 1 only with a prior consent of the person who established such flat at his own costs or of his legal successor or of the competent authority of the Republic that recommended conclusion of the lease agreement according to acts of national councils.

(5) If the lessor did not use the evacuated flat without serious reasons for the purpose for that the court gave its consent to the termination of the lease, the court may upon the lessee's petition decide that the lessor must subsequently give the lessee who evacuated the flat reimbursement of moving expenses and other expenses connected with necessary modification of the compensatory flat. Furthermore, the court may impose upon the lessor a duty to pay the lessee the difference between the rent in the hitherto flat and in the compensatory flat until the time when the lessee quitted the lease of the compensatory flat. The lessee's right to reimbursement of the of the difference of rents shall not become statute-limited within five years. Other claims of the lessee shall not be affected by this rule.

## § 712

(1) Housing compensations shall be defined as compensatory flat and compensatory accommodation.

(2) The compensatory flat shall be defined as a flat whose size and equipment secures a human and dignified stay of the lessee and members of his household. If the lease was terminated for reasons according to § 711 para. 1 letter a), b), e), f) and i), the lessee shall have the right to a compensatory flat that is according to the local condition wholly equivalent to the flat that is to be evacuated (adequate compensatory flat). For reasons worth special regard, the court may decide that the lessee has a right to a compensatory flat of a smaller flooring area than is the area of the evacuated flat. If the lease was terminated by the lessor for the reason according to § 711 para. 1 letter b) and if the lessor stopped executing work for the lessor without serious reasons, it shall be sufficient to provide a shelter; if there are reasons worth special regard, the court may decide that the lessee has a right to a compensatory flat of a smaller flooring area, a worse quality or less equipped eventually outside the municipality where the evacuated flat is located or that the lessee has the right to a compensatory accommodation.

(3) In cases according to § 705 para. 2 first sentence, it shall be sufficient to grant the divorced spouse who has to evacuate the flat a compensatory accommodation; however, for reasons worth special respect, the court may decide that the divorced spouse has the right to a compensatory flat. In cases according to § 705 para. 1 and para. 2 second sentence, the divorced spouse shall have the right to a compensatory flat; if there are reasons worth special

respect, the court may decide that the divorced spouse has only the right to compensatory accommodation.

(4) Compensatory accommodation shall be defined as a one-room flat or a room in a house of flatlets for unmarried people or a sub-lease in an equipped or unequipped part of another lessee's flat.

(5) If the lease relationship ended upon the lessor's termination according to § 711 para. 1 letter c), d), g) and h) and if the flat is being evacuated, it shall be sufficient to grant a shelter. If the case is a family with minors, if the lease relationship ended upon the lessor's termination according to § 711 para. 1 letter c) and d) and if there are reasons worth special regard, the court may decide that the lessee has the right to a compensatory accommodation eventually to a compensatory flat. A shelter shall be defined as a makeshift until the lessee gains a proper accommodation and room for storage of his flat equipment and other things of housing and personal needs.

(6) Of the lessee has the right to a housing compensation, this lessee does not have to move out of the flat and evacuate the flat until a corresponding housing compensation is assured for him; joint lessees shall have the right only to one housing compensation.

#### § 712a

During the period between the end of the lease relationship and the lease day of the evacuation period, the lessor and the person whose lease relationship ended shall have the rights and duties in the extent corresponding to the provisions § 687 to 699 and adequately to 700 to 702 para. 1.

#### § 713

(1) If the service flat is used after the lessee's death or after the divorce of marriage by the spouse or by the persons mentioned in § 706 para. 1, these persons do not have to move out of the flat until they are granted an adequate compensatory flat. This rule shall apply also if the lessee of the service flat leaves the common household forever. In well-grounded cases, the court may decide that it shall be sufficient to grant a compensatory flat of a smaller floor area, of a worse quality or less equipped eventually even outside the municipality in comparison with the evacuated flat or it shall be sufficient to grant a compensatory accommodation.

(2) The provision of paragraph 1 shall adequately apply to flats of special purpose and to flats in houses of special purpose.

#### § 714

If membership of a person in a housing co-operative expires, also its lease of a flat shall expire. The lessee of a co-operative flat shall not have to move out of the flat unless he is granted a housing compensation under conditions laid down in § 712.

### **Regulation of lessees' rights in case of a mutual barter of flats**

#### § 715

With consent of the lessors, the lessees may agree on a barter of flats. The consent as well as the agreement must be made in writing. If the lessor refuses to give his consent to the barter of flats without having serious reasons therefor, the court may upon the lessee's petition issue a decision superseding the expression of the lessor's will.

## § 716

(1) The right to fulfilment of the agreement on barter of flats must be exercised before the court within three months from the day when the consent to the agreement was expressed; otherwise, the right shall become extinct.

(2) If so serious circumstances subsequently occur to some of the participants that fulfilment of the agreement is not fair to demand from him, such participant may withdraw from the agreement; however, he must do so without undue delay. The duty to compensate the damage shall not be affected by this rule.

### Title five

#### Lease of dwelling rooms in establishments destined to permanent living

## § 717

(1) Lease of a dwelling room in establishments destined to permanent living shall arise on the basis of a lease agreement concluded between the lessor and the lessee.

(2) If lease agreements with more lessees are concluded for use of the same room, each of them shall be considered separate lessee in the extent determined in the agreement.

## § 718

If the lessee has to move out of the dwelling room, it shall be sufficient to give him a compensatory accommodation unless anything else was agreed by the participants in the lease agreement.

### Title six

#### Sublease of a flat (a part of a flat)

## § 719

(1) A leased flat or his part may be subleased for a time period stipulated in the sublease agreement or for an infinite time period only with a written consent of the lessor. Violation of this duty shall be considered violation of the duty according to § 711 para. 1 letter d). The sublease agreement shall regulate condition of termination of the lease, particularly the possibility to terminate the lease by the lessor; unless anything else was agreed, it shall be presumed that the sublease can be terminated without giving any reason within the period according to § 710 para. 3.

(2) If the sublease was agreed for a definite period of time, the sublease shall expire also after the lapse of this period.

(3) After expiration of the sublease, the sub-lessee shall not have the right to a compensatory sublease.

### Title seven

#### Lease and sublease of non-residential premises

## § 720

Lease and sublease of non-residential premises shall be regulated by a special act.<sup>6)</sup>

-----  
<sup>6)</sup> Act No. 116/1990 Sb., on lease and sublease of non-residential premises.

Title eight  
Special provisions on business lease of movable things  
§ 721

(1) If the leased thing has defects due to that it can not be properly used or that make such use more difficult, the lessee shall have the right to provision of another thing serving to the same purpose. Apart from it, the lessee shall have the right to remission of the rent or to a rent rebate for the period during that he could not use the thing at all due to its defect or during that he could use the thing only under aggravated conditions.

(2) The right to the remission of the rent or to the rent rebate must be exercised at the lessor until the end of the time for that the lease was agreed.

§ 722

(1) The lessee shall not be liable for wear of the thing caused by a proper use.

(2) If the thing is damaged, lost or destroyed, the lessee must inform about it the lessor without undue delay. The lessee's duty to compensate the damage shall be governed by the provision of this Act concerning liability for damage; however, the lessee shall not be liable for damage that arose due to the fact that the lessor did not fulfil the duty imposed by the provision of § 617.

§ 723

(1) If the lessee returns the thing after the lapse of the time period stipulated in the agreement, the lessee must pay the rent until the return of the thing. A lessee who is in default with returning of the thing must also pay a default charge.

(2) If the thing was lost or destroyed, the lessee must pay the rent and, if stipulated, a default charge until he informs the lessor of the loss or destruction of the thing or until the lessor learns of it otherwise.

CHAPTER EIGHT  
MANDATE AGREEMENT

Title one  
General provisions  
§ 724

On the basis of a mandate agreement, a mandatory undertakes the obligation to arrange for a matter or to perform other activity for the mandator.

**The mandatory's duties**  
§ 725

In fulfilling the mandate, the mandatory must act according to his abilities and knowledge. The mandatory may deviate from the mandate only if it is in the mandator's interest necessary and unless he can timely obtain his consent; otherwise, the mandatory shall be liable for damage.

§ 726

The mandatory must perform the mandate in person. If he entrusts somebody else with performance of the mandate, he shall be liable as if he performed the mandate on his own; however, if the mandator allowed the mandatory to choose a substitute or if the substitute was necessary, the mandatory shall be liable only for intention or negligence concerning the choice of the substitute.

§ 727

Upon the mandator's request, the mandatory must give the mandator all reports about the course of performance of the mandate and transfer all proceeds from the performed mandate to the mandator; after performing the mandate, the mandatory shall provide the mandator with a final account.

**The mandator's duties**

§ 728

Unless anything else is agreed between the parties, the mandator must provide the mandatory upon his request in advance with adequate means necessary to the performance of the mandate and with compensation of necessary and useful costs spent in the course of performing of the mandate even if the result was not achieved.

§ 729

(1) Furthermore, apart from damage caused by intention or negligence, the mandator must provide the mandatory also with compensation of the damage that arose in connection with performance of the mandate.

(2) If the damage that occurred to the mandatory in the course of performance of the mandate arose only by chance, the mandatory may demand compensation only if he undertook to perform the mandate without payment; however, the mandatory shall not gain more than he would gain as a usual commission if it had been concluded.

§ 730

(1) The mandator must provide the mandatory with a commission only if the commission was agreed or if it is usual in particular with regard to the mandatory's profession.

(2) The mandator must provide the commission even if the result did not occur unless the failure was caused by violation of the mandatory's duties.

**Discharge of the mandate agreement**

§ 731

Discharge of the mandate agreement shall be adequately governed by the provisions concerning expiration of a power of attorney (§ 33b).

§ 732

If the mandate agreement was recalled, the mandator must provide the mandatory with compensation of costs that occurred until the recall, suffered damage and, if the mandatory is entitled to a commission, also with a part of the commission corresponding to the performed

work. This rule shall apply also if finalizing of the mandate act was marred by a chance that was not evoked by the mandatory.

Title two  
Agreement on arrangement for a matter  
§ 733

On the basis of an agreement on arrangement for a matter, the agent undertakes to arrange for a matter for the client. The agent may arrange for the matter also through a third person. The client must provide the agent with a commission for arranging for the matter.

§ 734

The agent must give the client a written receipt confirming conclusion of the agreement; the receipt must specify the subject to be arranged for, its price and the period during that the matter shall be arranged for.

§ 735

Before the matter is arranged to, the client may withdraw from the agreement; however, he must give the agent reimbursement of purposefully spent costs and of other loss arisen to the agent unless the agent could prevent the loss. This rule shall not affect the claim to exercise of rights ensuing from the agent's default or defective performance.

§ 736

In arranging for to the matter, the agent must respect the client's instructions; he may deviate from them if it is necessary in the client's interest and if he can not gain his consent timely.

Title three  
Agreement on arranging for sale of a thing  
§ 737

On the basis of an agreement on arranging for sale of a thing, the client is entitled that the agent takes over from him a thing for sale and to take measures necessary for the sale.

§ 738

The agreement must be concluded in writing. The agreement must specify at least the subject of the sale, the price for that the subject is to be sold, the agent's commission for arranging for the sale and a charge in case it comes to withdrawal from the agreement before the agree period destined to the sale of the thing.

§ 739

- (1) The agent shall have the right to a commission only if the committed thing was sold.
- (2) The client shall have the right that that client pays him the sum for that the thing was sold, reduced by the commission.

§ 740

Unless the agent sells the thing within three months from the day when the thing was committed to him for sale, the agreement shall be cancelled by operation of law unless anything else was agreed between the client and the agent. The participants may agree that after the lapse of the agreed period, the thing shall be sold for a lower price.

§ 741

(1) If the thing committed to the agent for sale is sold, the agent shall be liable vis-à-vis the buyer for defects of the sold thing; the agent shall be also liable that the sold thing has qualities stated by the agent when the thing was being sold.

(2) Otherwise, this liability shall be analogously governed by the provisions concerning sale of used things.

CHAPTER NINE  
UNORDERED AGENCY

§ 742

If somebody arranges for somebody else's matter without being authorized thereto in order to avert threatening damages, the person whose matter was arranged must give the unordered agent reimbursement of necessary cost even if the result did not occur without the agent's intention or negligence.

§ 743

(1) If the matter is not averting damages, the person who wants to arrange for another person's matters must inform this person thereof and wait for his consent.

(2) Unless the aforesaid person does so and if the matter is in somebody else's interest, the unordered agent shall have the right to reimbursement of costs by that the person in whose interest the unordered agent acted was enriched at the moment when the act was finished.

§ 744

(1) Unless the case is averting of damages, a person who intervenes in somebody else's matters shall be liable for the caused damages; in the framework of this liability, the unordered agent shall be also liable for chance unless the chance had happened even without his intervention.

(2) The same rule shall apply if somebody else intervenes in somebody else's matters against his expressed will.

§ 745

Unless the unordered agent has the right to reimbursement of costs, the agent shall be entitled to take what he gained at his own costs if it is possible.

§ 746

The unordered agent must bring the act to an end, submit a final account and transfer what he gained to the person to whose matters he arranged for.

CHAPTER TEN  
CUSTODY AGREEMENT  
§ 747

(1) On the basis of a custody agreement, the client shall have the right that the custodian properly keeps in custody a movable thing accepted from the client. The custody agreement may be concluded also in the manner that giving over and taking over of the thing is assured by mechanical means.

(2) The agreement may stipulate that the custodian may put the thing into other custodian's custody.

§ 748

The client must pay the custodian compensation of all necessary costs the custodian spent for the thing while keeping it in custody; the client must pay a commission for the custody only if he agreed to it or if it corresponds to the subject of the custodian's business or to usage.

§ 749

(1) The custodian must keep the accepted thing in custody in an agreed way; if no agreement concerning the way of custody was concluded, the custodian must keep it carefully and if it is usual, he must have it insured; after the lapse of the period of custody, the custodian must return the accepted thing with what accrued thereto.

(2) The custodian must return the thing to the client upon his request even before the lapse of the agreed period but the custodian himself is not entitled to return it earlier except for the case that he is not able to keep the thing in custody safely or without his own damage due to an unforeseen circumstance.

§ 750

Unless the parties agreed on how long the thing is to be kept in custody and unless it is discernible even from a circumstance, the client may demand returning of the thing at any time and the custodian may return the thing at any time.

§ 751

If the custodian uses the accepted thing, if he enables somebody else to use it, if he puts the thing into somebody else's custody without the client's consent or without a necessary need or if he is in default with returning of the thing, the custodian shall be liable even for a contingent damage except if this damage had arisen to the thing even otherwise.

§ 752

Unless the parties have agreed on anything else, the client must pay the custodian compensation for the damage caused by the custody as well as the costs the custodian spent for the thing in order to fulfill his duty.

§ 753



Mutual rights from custody may be exercised within six months after returning of the thing; otherwise, they shall become extinct.

CHAPTER ELEVEN  
ACCOMMODATION AGREEMENT  
§ 754

(1) On the basis of an accommodation agreement, the customer shall have the right that the other party provides him with a temporary accommodation for the agreed period or for a period following from the purpose of accommodation in a facility destined thereto (hotels, lodging houses, hostels and other facilities).

(2) For the accommodation and for services connected therewith, the customer must pay the provider of accommodation a price within periods laid down in accommodation rules.

§ 755

The accommodated customer shall have the right to use the premises that were detailed for him as well as to use common premises of the accommodation facility and to enjoy services whose provision is connected with the accommodation.

§ 756

The provider of accommodation hand over the detailed premises to the accommodated customer in a state allowing proper use and provide him with an undisturbed exercise of rights connected with the accommodation.

§ 757

The accommodated customer must properly use the premises detailed to his accommodation and the services connected with the accommodation; in these premises, the accommodated customer must not realize any essential changes without the consent of the provider of the accommodation.

§ 758

The liability of the provider of the accommodation for the things carried into the accommodation premises by the customer shall be governed by the provisions of § 433 and 436.

§ 759

(1) The accommodated customer may withdraw from the agreement before the lapse of the agreed period; he must pay compensation for loss caused to the provider of accommodation by the premature termination of the accommodation only if the provider of accommodation could not prevent the loss.

(2) The provider of accommodation may withdraw from the agreement before the lapse of the agreed period if the accommodated customer violates good manners in the accommodation facility despite a warning or if he otherwise grossly violates his duties from the agreement.

CHAPTER TWELVE  
TRANSPORT AGREEMENTS

Title one  
Agreement on transport of persons  
§ 760

On the basis of an agreement on transport of persons, the traveler who uses a means of transport for a stipulated fare shall have the right that the transporter duly and timely transports him to the place of destination.

§ 761

In the course of transport, the transporter must in particular see to safety and comfort of the travelers and, in case of mass transport, enable them to use of social and cultural facilities. Details shall be regulated by rules of transport.

§ 762

(1) If the traveler has luggage, the transporter shall transport the luggage either together with the traveler and under his surveillance or separately.

(2) If the luggage is transported separately, the transporter must see to it that it is transported to the place of destination no later than at the same time with the traveler.

**Liability**  
§ 763

(1) In case of a regular transport of persons, the rules of transport shall stipulate what rights the traveler shall have against the transporter if the transport was not carried out timely.

(2) In case of an irregular transport of persons, the transporter must pay the traveler compensation for damage caused to the traveler due to the fact that the transport was not carried out timely; the conditions for and way of the compensation shall be stipulated by the rules of transport.

(3) The traveler must exercise the rights according to paragraphs 1 and 2 at the transporter without undue delay; the rights shall become extinct unless they were exercised within six months.

§ 764

(1) If the traveler suffers during the transport from damage to health or from damage to luggage transported together with him or to things he had with him, the transporter shall be liable for such damage according to the provisions on liability for damage caused by operation of means of transport (§ 427 to 431).

(2) The transporter's liability for damage to luggage transported separately from the travelers shall be governed by the provisions on liability in case of carriage of freight.

Title two  
Agreement on carriage of freight  
§ 765

(1) On the basis of an agreement on carriage of freight, the consignor shall have the right that he carrier carries the consignment for a fare to a specified place and hands it over to a specified receiver.

(2) The consignor must at the carrier's request provide the carrier with a written confirmation of the order of carriage.

(3) The carrier must at the consignor's request provide the consignor with a written confirmation that he accepted the consignment.

#### § 766

(1) Before the consignment is handed over, the consignor may give the carrier new orders under conditions stipulated by rules of carriage.

(2) The rules of carriage shall lay down when and under what conditions the right to give the carrier new orders shall belong to the receiver.

#### § 767

The carrier must carry out the carriage with a due care and within the stipulated period.

#### § 768

(1) The carrier may carry out the carriage even through other individuals or legal entities; in doing so, the carrier shall be liable as if he carried out the carriage on his own.

(2) If more carriers realize the carriage as a joint carriage according to the rules of carriage, the rules of carriage shall lay down who of the carriers and under what conditions shall be liable for this carriage.

### **Liability**

#### § 769

(1) The carrier shall be liable for damage that arose to the carried consignment during the period from the moment when it was accepted to carriage to the moment when it was handed over unless the damage was caused by the consignor or by the receiver, by defects of the consignment, its package or wrapping, by special nature of the consignment or by a circumstance the carrier was not able to avert.

(2) The rules of carriage may stipulate under what conditions the damage shall be presumed to have arisen due to some of the caused mentioned in paragraph 1.

(3) The provisions of § 427 to 431 shall not apply to damages arisen to the carried consignments.

#### § 770

(1) In case of loss or destruction of the consignment, the carrier must compensate the price the lost or destroyed consignment had at the moment when it was accepted to carriage. Apart from it, the carrier must bar purposefully spent costs arisen in connection with the carriage of the lost or destroyed consignment. If the consignment was impaired or lost in part, the carrier shall reimburse the sum by that the consignment was depreciated; if it was purposeful to carry out a repair, the carrier shall cover the costs of the repair.

(2) As for other damage from the carriage of freight than the damage to the carried consignment, the carrier shall be liable only if they were caused due to the fact that the period

of delivery was exceeded; the conditions and extent of the compensation shall be laid down by rules of carriage.

#### § 771

The consignor must exercise the right to compensation for damage at the carrier within six months from the moment when the consignment was handed over to the receiver or, if the consignment was not handed over, within six months from the moment when the consignment was accepted to carriage; otherwise, the right shall become extinct.

### Title three Joint provisions on transport agreements § 772

A more detailed regulation of transport of persons and carriage of freight shall be stipulated by special provision, in particular by rules of transport or carriage and tariffs. In the framework of this regulation, the rules of inland transport or carriage may also assume provisions valid in international transport; the liability for damage to health laid down by this Act must not be restricted.

#### § 773

(1) Consignments that were not received (withdrawn) shall be regulated by the provision of § 656 para. 2 and 3.

(2) Rules of transport or carriage may stipulate that certain consignments, in particular things of a dangerous nature or quickly perishable things, must be received (withdrawn) within a period shorter than 6 months.

### CHAPTER THIRTEEN MEDIATION AGREEMENT § 774

On the basis of a mediation agreement, the mediator undertakes to see to conclusion of an agreement for the client for a commission and the client undertakes to provide the mediator with a commission if the result was achieved by the mediator's endeavor.

#### § 775

The mediator shall have the right to a commission in an agreed sum; the commission must be agreed in accordance with generally binding regulations or it shall be invalid to § 40a.

#### § 776

Apart from the commission, the mediator shall be entitled to a reimbursement of costs only if it was explicitly agreed; in case of doubts, only if he has the right to commission.

#### § 777

The client and the mediator must inform each other of all important circumstances related to the mediation, in particular of the circumstances that may influence the client's decision to

conclude the mediated agreement. The mediator may act or receive anything for the client only if he is empowered thereto by a written power of attorney.

## CHAPTER FOURTEEN DEPOSITS

### **General provisions** § 778

A deposit agreement between an individual or a legal entity (hereinafter the "depositor") and a money institute shall arise by lodging the deposit with the money institute and by accepting the deposit by the money institute.

### § 779

The depositor shall be entitled to interests or other property benefits laid down by the money institute in accordance with a measure according to special provisions.<sup>7)</sup>

-----  
<sup>7)</sup> § 11 para. 3 of the Act No. 158/1989 Sb., on banks and saving institutes.

### § 780

(1) The deposit may be disposed of by the depositor and, in cases stipulated by an act, also by another entitled person.

(2) Upon the consent of the money institute, the depositor may link (vinculate) payment of the deposit to conveyance of a password or to fulfillment of another condition.

(3) Unless the depositor knows the password, he must prove that owns the deposit.

### **Deposits on saving books** § 781

(1) The money institute shall confirm acceptance of the deposit in a saving book issued in the manner that it reveals the sum of the deposit, its changes and the final state.

(2) Unless another sum of the deposit is proved, the entry in the saving book shall be decisive.

### § 782

The saving book may be issued only to a name.

### § 783

(1) The deposit can not be disposed of without submission of the saving book.

(2) The deposit on a name-issued saving book may be disposed of by the person to whose name, surname, address and date of birth or a legal entity's identification symbol the saving book is issued. However, a deposit on a travel saving book may be disposed of in the stipulated cases by anyone who submits the saving book and a sheet of proof.

### § 784

(1) If the saving book was lost or destroyed, the depositor may dispose of the deposit only if the money institute proclaims the saving book invalidated upon his motion or upon the motion of anyone who has legal interest therein.

(2) After the saving book is invalidated, the money institute shall give the depositor a new saving book or shall pay him upon his request the whole deposit.

(3) An implementing regulation shall lay down the procedure of invalidation of saving books and the cases when the money institute may pay the whole deposit or issue a new saving book even without invalidating the original saving book if the entitled person is known.

#### § 785

If the depositor neither disposed of the deposit nor submitted the saving book to completion of the entries, the deposit relationship shall be cancelled after the lapse of this period by operation of law; the depositor shall have the right to payment of the rest of the cancelled deposit.

### **Deposit certificates**

#### § 786

(1) Deposit certificate is a confirmation of the money institute about a firm lump-sum deposit. The sum of the deposit shall be mentioned in the deposit certificate. The provisions of this Act on saving books shall adequately apply to deposit certificates.

(2) The deposit certificate may be issued only to a name.

### **Other forms of deposits**

#### § 787

(1) The money institute and the depositor may agree also on other forms of deposits.

(2) Unless anything else is agreed, these other forms of deposits shall be adequately governed by the provisions on saving books and deposit certificates.

(3) Other forms of deposits may be agreed only to a name.

## **CHAPTER FIFTEEN INSURANCE AGREEMENTS**

### **Title one**

#### **Insurance agreement**

#### § 788

(1) On the basis of an insurance agreement, the insurer undertakes to pay a benefit in the agreed extent if it comes to a contingent event specified in the agreement; the individual or the legal entity who concluded the insurance agreement with the insurer undertakes to pay insurance premium.

(2) The insurer's general insurance terms (insurance terms) are a part of the insurance agreement if the insurance agreement refers to them and if they are attached to the agreement or if the person who concluded the agreement with the insurer was informed about them before conclusion of the agreement.

(3) The insurance agreement may deviate from the insurance terms only in cases specified in the insurance terms. In other cases, the deviation shall be admissible only if it is to the

insured party's benefit.

(4) The general insurance terms shall particularly define the event from that the right to the insurer's benefit shall arise, specify the extent and due date of the insurance benefit, lay down the way the insurance premium shall be paid and its sum shall be ascertained, the way the insured party in case of insurance of persons shall participate in the insurance company's profit if such participation is stipulated by the insurance agreement.

#### § 789

A special legal regulation may impose upon an individual and a legal entity a duty to enter into an insurance agreement. Such regulation may also stipulate that the insurance shall arise on the basis of another fact under conditions mentioned therein without conclusion of an insurance agreement (insurance arisen by operation of law).

#### § 790

The insurance may apply in particular to

- a) property in case it is impaired, destroyed, lost, stolen or affected by other damages to it (property insurance);
- b) an individual in case he or she is injured, dies, lives to a certain age or in case other insurance event occurs (insurance of persons);
- c) liability for damage to life and health or to a thing eventually to liability for other property damage (insurance of liability for damage).

#### § 791

(1) Legal acts concerning insurance shall require a written form unless this Act or the insurance terms stipulate otherwise.

(2) The insurer shall provide the person who entered with him into the insurance agreement with a policy as a written confirmation of conclusion of the agreement. If the policy is lost or destroyed, the insurer shall provide the person who entered with him into the insurance agreement upon his request and at his costs a copy of the policy. If the insurance terms stipulate that the policy must be submitted if one wants to exercise his right to insurance payment, the insurer may, before issuing the copy, demand that the policy be invalidated.

(3) If a policy concerning international carriage of goods contains a right of the person who entered into the agreement with the insurer to assign a right from the insurance agreement by way of endorsement (even of a blank one) to other persons who are entitled to a further assignment, these persons shall be entitled to a further assignment (order policy). This transfer of a carriage policy by way of endorsement shall have effects of assignment of a receivable even if the insurer was not informed about the assignment. The insurer shall not have to control validity of the endorsement.

### Title two

#### Conclusion of the insurance agreement

#### § 792

(1) Conclusion of an insurance agreement demands that the offer be accepted within a period specified by the offering person; unless the offering person specified any period, within one month from the day when the other party received the offer. The insurance agreement shall be concluded at the moment when the offering person receives notification

that his offer was accepted.

(2) The insurer's offer may be accepted also by paying the insurance premium in the sum mentioned in the offer if it is paid during the period according to paragraph 1; in such case, the insurance agreement shall be concluded as soon as the insurance premium is paid.

#### § 793

(1) The person who is entering into an insurance agreement with the insurer must give true and complete answers to all the insurer's written questions concerning the insurance that is to be agreed on. The same rule shall apply to change of insurance.

(2) This duty shall apply also to the person to whose property, life or health or liability for damage the insurance is to apply even if such person does not conclude the insurance agreement.

#### § 794

(1) An insurance agreement may be concluded also in favor of a third party.

(2) Insurance agreements concluded in favor of another person shall be adequately governed by the provision on agreement in favor of a third person (§ 50); the consent of the other person may be given also subsequently when such person asserts the rights following from the insurance event.

### Title three

#### Rights and duties from the insurance

#### § 795

(1) The insurer's duty to pay and his right to insurance premium shall arise on the first day after conclusion of the insurance agreement unless the parties agreed that it shall arise at the moment of conclusion of the insurance agreement.

(2) In case of insurance concerning international carriage of goods, the parties may agree that the insurance shall apply even to the time before conclusion of the insurance agreement. However, the insurer shall not have to give the insurance payment if the person who entered with him into the insurance agreement knew or must have known at the moment of conclusion of the insurance agreement that the insurance even has occurred.

#### § 796

(1) The person who entered with the insurer into the insurance agreement must pay insurance premium for agreed insurance periods (current insurance premium); the parties may also agree that the insurance premium shall be paid in a lump sum for the who period for that the insurance was agreed (lump-sum insurance premium).

(2) Unless the parties have agreed otherwise, the current insurance premium shall fall due on the first day of the insurance period and the lump-sum insurance premium on the day of beginning of the insurance.

(3) Unless the insurance premium in case of insurance concerning international carriage of goods is paid and unless the matter is the case mentioned in § 795 para. 2, the insurer shall not have to pay insurance payment from insurance events that occurred before the payment of the insurance premium. The insurer shall not have the right to insurance premium if he knew at the moment of conclusion of the agreement that the insurance even could not occur.

(4) If the insurance terms stipulate so, the person who entered with the insurer into the



insurance agreement shall be freed from the duty to pay the insurance premium without the sum of insurance payment being affected thereby.

§ 797

(1) Unless this Act or the insurance policy stipulate otherwise, the right to the insurance benefit shall belong to the person to whose property, life or health or liability for damage the insurance applies (the insured person).

(2) The right to the benefit shall arise if it comes to the event with that rise of the insurer's duty to pay the benefit is connected (the insurance event).

(3) The benefit shall fall due in fifteen days after the insurer ended the inquiry necessary to learn the extent of the insurer's duty to pay. The inquiry must be done without undue delay; unless it can be finished within one month after the insurer learnt of the insurance event, the insurer must upon a request provide the insured person with an adequate advance payment.

§ 798

The insurer may adequately reduce the benefit from the insurance agreement if a knowingly false or incomplete answer (§ 793) lead to calculation of a lower insurance premium.

§ 799

(1) The insured person must fulfil duties that were agreed or that are stipulated in this Act or in insurance terms.

(2) The person who has the right to the insurance benefit must inform the insurer without undue delay that it came to the insurance event, provide a true explanation of its rise and of the scope of its consequences and submit necessary documents requested by the insurer. The insurance terms may impose further duties upon the insured person.

(3) If a knowing violation of the duties mentioned in paragraph 1 and 2 had an essential influence on the rise of the insurance event or to extension of the scope of consequences of the insurance event, the insurer may reduce the insurance benefit in accordance with what influence this violation had on the scope of his duty to pay the benefit.

Title four  
Expiry of the insurance  
§ 800

(1) An insurance for that a current insurance premium is agreed shall expire on the basis of a termination at the end of the insurance period; the termination must be given at least six weeks before its lapse.

(2) The parties may also agree that the insurance may be terminated bay any of the participants within two months after conclusion of the insurance agreement. The termination period shall be eight days long; the insurance shall expire after its lapse.

(3) The individual or the legal entity who entered with the insurer into the insurance agreement may terminate the agreement within 30 days after the delivery of the insurer's notification that the concluded insurance agreement was transferred to another insurer or after publication of an announcement that the insurer was deprived of the authorization to run insurance activities. The termination period shall be eight days long; the insurance shall expire after its lapse.

(4) The insurer can not terminate insurance of persons according to paragraph 1 and 3 except for insurance in case of injury.

#### § 801

The insurance shall also expire if the insurance premium for the first insurance period or the lump-sum insurance premium was not paid within three months or if the insurance premium for next insurance periods was not paid within six months after its due date; these periods may be prolonged by the agreement. The insurance shall expire after the lapse of the relevant period. The same rule shall apply if only a part of the insurance was paid.

#### § 802

(1) If the duties mentioned in the provision of § 793 were knowingly violated, the insurer may withdraw from the insurance agreement if he had not entered into the agreement in case of true and complete answer of the questions. The insurer may exercise this right within three months after the day when he learnt of such fact; otherwise, the right shall become extinct.

(2) If the insurer learns after the insurance event that the event was caused by a fact that he could not learn at the moment of conclusion of the agreement due to knowingly false or incomplete answers and that was essential for conclusion of the agreement, the insurer may reject to pay the benefit from the insurance agreement; the insurance shall expire at the moment when the benefit was rejected.

#### § 803

(1) The insurer shall have the right to the insurance premium for a period until the expiry of the insurance.

(2) If the insurance expires before the lapse of the period for that the current insurance premium was paid, the insurer must return the remaining part of the insurance premium.

(3) If the insurance event occurred and the reason of further insurance fell thereby out, the insurer shall be entitled to an insurance premium until the end of the insurance period during that the insurance event occurred; even in these cases, the lump-sum insurance premium shall always belong to the insurer in its whole sum.

#### § 804

Insurance terms concerning insurance of persons shall stipulate in what cases the insurer must pay a severance payment, in what cases the insurance shall not expire due not-paying the insurance premium and to what cases the provision of § 803 para. 2 on returning of insurance premium shall not apply.

### Title five Change of the insurance § 805

Insurance terms on property insurance and insurance of liability for damage concerning insurance of property in joint property of spouses shall stipulate under what conditions the insurance of property or of liability for damage shall expire, to whom they shall pass and to what things it shall apply if the joint property became extinct.

Title six  
Property insurance  
§ 806

On the basis of a property insurance, the insured person shall have the right to a benefit in a sum specified according to the insurance terms if the insurance event concerns the thing to that the insurance applies.

§ 807

If one and the same thing is insured for the same case with more insurers and if the total sum of all sums insured exceeds the value of the insured thing or if it exceeds the total sum of sums that would have to be paid by the insurers from the same insurance event from the concluded insurance agreements (multiple insurance), each of the insurers must pay the benefit up to the value of the thing or up to the agreed sum insured only in the proportion of the sum that he would have to pay according to his agreement to the sum that would have to be paid by all insurers.

§ 808

If one thing is insured for the same period also in another insurance against individual particular dangers, the insurer – if he is bound to compensate the damage - shall pay the benefit from the insurance event caused by such particular danger only if the insured person could not gain benefit from the insurance concluded for the case of such particular danger.

§ 809

(1) The insured person must see to it that the insurance event does not occur; in particular, he must not violate duties aimed to averting or reducing of danger that are imposed upon him by legal regulations or that he undertook in the insurance agreement.

(2) If the insured person knowingly or as a result of abuse of alcohol or addictive matters violated the duties mentioned in paragraph 1 and this violation essentially contributed to rise of the insurance event or to a larger scope of its consequences, the insurer may adequately reduce the benefit from the insurance agreement. The same rule shall apply if these duties were knowingly or as a result of abuse of alcohol or addictive matters violated by the person living with the insured person in a common household.

§ 810

The insured person shall have the right to reimbursement of costs purposefully spent on averting of the insurance event that immediately threatened to the insured property. The insured person shall have also the right to reimbursement of costs he purposefully spent in order to moderate the consequences of the insurance event.

§ 811

(1) If the insurance event concerns a mortgaged real estate property (§ 151a ff.), the insurer shall pay only with consent of the mortgage creditor if the mortgage creditor announces until the payment of the benefit that the mortgage arose by incorporating it with the Real Estate Cadastre.

(2) If the mortgage creditor rejects to give his consent to payment of the benefit, the insurer shall put it into a judicial custody.

§ 812

If the owner of the insured property changes, the insurance shall expire unless the insurance terms stipulate otherwise.

§ 813

(1) If the insured person has a right against somebody else to compensation of the damage caused by the insurance event, his right shall pass to the insurer in the sum paid to the insured person by the insurer.

(2) If the insurer acquired the right according to paragraph 1 against an individual, the provision of § 450 shall adequately apply in exercise of such right.

(3) Claims of the insured person against persons who live with him in a common household or who are thrown upon him by maintenance shall not pass to the insurer. However, this rule shall not apply if these persons caused the damage intentionally.

§ 814

If the insurer paid the insured person compensation of only a part of the damage, the person against whom the insured person has a right to reimbursement of the remaining part of the damage must satisfy the insurer after satisfaction of the insured person.

§ 815

(1) The insurance may be also related to property of somebody else than is the person who entered with the insurer into the insurance agreement. The insurance terms shall stipulate in what cases the right to insurance benefit from the insurance event does not belong to the insured person but to somebody else.

(2) If the individual person or legal entity who concluded the insurance related to somebody else's property dies or is dissolved, this person shall succeed into the insurance instead of the person who entered into the insurance agreement with the insurer.

Title seven

Insurance of persons

§ 816

On the basis of insurance of persons, the insured person shall have the right that he is paid an agreed sum or an agreed rent or provided a performance in a sum specified by the insurance terms if he is affected by an insurance event.

§ 817

(1) If the parties agreed that death shall be the insurance event, the person who entered into the insurance agreement with the insurer may specify the person to whom the right to the benefit is to arise by the insurance event; this person may be specified by name or by his or her relation to the insured person. He may change such specification until the rise of the insurance event; unless the person who entered into the insurance agreement is the insured

person himself, he may change the specification of the entitled person only with the consent of the insured person. The change of specification of the person shall be effective at the moment when the notification was delivered to the insurer.

(2) Unless the entitled person is specified at the moment of the insurance event or unless he acquires the right to the benefit, this right shall be acquired by the insured person's husband; if there is no such husband, by the children of the insured person.

(3) Unless there are any of the persons mentioned in paragraph 2, this right shall be acquired by the parents of the insured persons; if there are no such parents, by the person who had lived with the insured person for at least one year before his death in the common household and who cared for the common household for this reason or were thrown upon the insured person by maintenance; if there are no such persons, this right shall be acquired by the insured person's heirs.

#### § 818

If the right to the insurance benefit arises to more persons and if no shares are specified, each of them shall have the right to the same share.

#### § 819

In case of death of the person who entered with the insurer into an insurance agreement according to that somebody else is insured, the insured person shall succeed into the insurance instead him. The same rule shall apply to dissolution of a legal entity who entered into the insurance agreement with the insurer.

#### § 820

If the insurance event is defined as the insured person's injury, the insurer may reduce the sum he is to pay if the injury occurred as a result of abuse of alcohol or addictive matters by the insured person.

#### § 821

The right against the insurer shall not affect the right to compensation of damage against the person who is liable for the damage.

### Title eight Insurance of liability for damage § 822

On the basis of an insurance of liability for damage, the insured person shall have the right that in case of an insurance event, the insurer pays for him according to insurance terms compensation of the damage for that the insured person is liable.

#### § 823

The insurer shall pay the compensation to the damaged person; however, unless special regulations stipulate otherwise, the damaged person shall not have the right to the performance against the insurer.

§ 824

The insurance terms may stipulate in what cases change of the owner of a thing shall not result in expiry of the insurance of liability for damages.

§ 825

The insurer shall not have the right to reduce the compensation paid by him for the insured person according to § 799 para. 3; the sum by that the insurer was not allowed to reduce his performance must be paid to him by the insured person.

§ 826

If the insured person causes the damage due to abuse of alcohol or an addictive matter, the insurer shall have a right against him to an adequate compensation of what he paid for him.

§ 827

If the insurer compensated the damage for the insured person, the insurer shall acquire the insured person's right to compensation for damage or other similar right that arose to him against somebody else in connection with his liability for damage. If the insured acquired the right to compensation of damage against an individual, the provision of § 450 shall adequately apply in exercise of such right.

§ 828

(1) The insurance may apply also to liability of somebody else than the person who entered with the insurer into the insurance agreement.

(2) If the individual or the legal entity who concluded an insurance related to liability of another person dies or is dissolved, such person shall succeed into the insurance instead of the person who entered with the insurer into the insurance agreement.

CHAPTER SIXTEEN  
ASSOCIATION AGREEMENT

§ 829

(1) More persons may associate in order to see jointly to achievement of an agreed goal.

(2) Associations shall not have capacity to rights and duties.

§ 830

Each of the participants must execute activity in order to achieve the agreed goal in a way specified in the agreement and omit any activity that could make achievement of this goal impossible or more difficult.

§ 831

Apart from labor activities, the participants of the association may also undertake to provide money or other things for the purpose of the association. Unless the agreement specifies the amount, the participants shall be presumed to have to provide the same values.

§ 832

(1) The participants must provide the property values for the purpose of the agreement in a period stipulated in the agreement; if no period is agreed, without undue delay after conclusion of the agreement.

(2) If none of the participants is in charge of management of the things mentioned in paragraph 1, they shall be disposed of for the purpose of achievement of the purpose of the agreement by the participant who provided them; however, he must separate them from his other property in an agreed way or in a way notified by him to other participants of the association agreement.

§ 833

The provided money or other things specified in kind shall be co-owned by all participants in the proportion to their amount; the co-ownership shall arise at the moment when the participant informed about their separation from his other property or when they were given over to the entrusted participant. Things specified individually shall be in a free use of all participants.

§ 834

Property gained in the course of execution of the joint activity shall be co-owned by all participants.

§ 835

(1) Shares in the property gained in the course of execution of the joint activity shall be equal unless the agreement stipulates otherwise.

(2) Obligations vis-à-vis third persons shall bind the participants jointly and severally.

§ 836

(1) Unless the agreement stipulates anything else, the participants shall decide on arranging for their common things unanimously.

(2) If majority of votes is to be decisive according to the agreement, each of the participants shall have one vote; the size of the share shall be irrelevant.

§ 837

Each of the participants, even not executing the management, shall have the right to become convinced about the economic condition of the association. Provision of the agreement that are contrary to this rule shall be null and void.

§ 838

(1) Every participant may withdraw from the association but not at an unsuitable moment and to the detriment of other participants of the association. However, in case of serious reasons, the participant may withdraw from the association at any time even if a termination period was agreed.

(2) For serious reasons, a participant may be excluded from the association on the basis of

an unanimous decision of the other participants of the association unless the agreement stipulates otherwise.

§ 839

The participant who withdrew or who was excluded from the association shall be given back things brought into the association. The share of property shall be paid to him in cash according to the state on the day of withdrawal or exclusion.

§ 840

The participant who withdrew or who was excluded shall not be relieved of obligations from activities of the association that arose until the day of the withdrawal or exclusion.

§ 841

In case of dissolution of the association, the participants shall be entitled to returning of the values they provided for the purpose of the association and shall settle the property gained in executing the common activities of the association in a way stipulated in the agreement; otherwise, by equal shares.

CHAPTER SEVENTEEN  
PENSION AGREEMENT

§ 842

A pension agreement shall base somebody's right to payment of a certain pension for life or for an otherwise specified infinite period of time.

§ 843

The pension agreement must be concluded in writing.

§ 844

The right to pension can not be assigned to anybody else. However, due allowances may be assigned.

CHAPTER EIGHTEEN  
BET AND GAME OF CHANCE

§ 845

(1) Winnings from bets and games of chance can not be enforced; not even claims from loans knowingly provided for the purpose of a bet or a game of chance can be enforced. Such winnings and claims can not even be validly secured.

(2) Lot shall be considered to be a bet or game of change.

§ 846

The provision of § 845 shall not apply to a winning enterprise that is operated by the state or that was officially authorized.



CHAPTER NINETEEN  
PUBLIC COMPETITION  
§ 847

If an individual or a legal entity (hereinafter the "advertiser of the competition") advertises a public competition concerning certain work or performance, the advertisement must contain exact specification of the subject and period of the competition, the amount of prizes and other terms of competition; the advertiser must also state who, in what period and according to what criteria shall consider fulfillment of the terms of the competition and carry out the valuation.

§ 848

(1) The advertiser of the competition must give the prizes advertised in the public competition to those who according to the realized valuation fulfilled the terms of the competition concerning granting of prizes.

(2) If the goal was achieved by an activity of more competitors and if no different procedure was advertised or if no different agreement is concluded, the prize shall be divided according to in what ratio each of them took part in the achieved goal.

§ 849

(1) The public competition may be recalled only for serious reasons. The recall must be done in the same way the competition was advertised or in a similarly effective way.

(2) If the public competition was recalled, the advertiser must pay an adequate indemnity to those competitors who had fully or overwhelmingly fulfilled the terms of the competition before it was recalled. In recalling the competition, the advertiser of the competition must remind the competitors of this right.

CHAPTER TWENTY  
PUBLIC PROMISE  
§ 850

A public promise shall bind the person who publicly states that he shall pay a reward or give another performance to one or more person from a number of persons not specified in advance who fulfills the terms laid down in the public promise.

§ 851

Unless the terms of the public promise stipulate otherwise, the reward shall be granted to the person who fulfills them as first.

§ 852

If more persons fulfill the terms of the public promise at the same time and if it follows from its content that only one person is to be granted the reward, the reward shall be divided between them by equal shares.

CHAPTER TWENTY ONE  
TRAVEL AGREEMENT  
§ 852a

(1) On the basis of a travel agreement, an operator of a travel agency (hereinafter the "travel agency") shall undertake to provide the customer with a trip<sup>8)</sup> and the customer shall undertake to pay an agreed price.

(2) The offer of a travel agreement shall be submitted to the customer by the travel agency. After conclusion of the travel agreement, the travel agency must give one counterpart to the customer. Together with the travel agreement, the travel agency must give the customer a document on insurance<sup>9)</sup> drawn up by the insurance company.

-----  
<sup>8)</sup> § 1 para. 1 and 2 of the Act No. 159/1999 Sb., on several conditions of doing business in the sphere of travelling and on amendment to the Act No. 40/1964 Sb., Civil Code, as subsequently amended, and to the Act No. 455/1991 Sb., on licensed business (Licensed Business Act), as subsequently amended.

<sup>9)</sup> § 6 of the Act No. 159/1999 Sb.

§ 852b

(1) The travel agreement must be concluded in writing and must contain

- a) identification of the parties to the agreement;
- b) specification of the purpose of the trip, in particular the term of its commencement and end, specification of all travel services included into the price of the trip, the place and period of their duration; the specification of the trip may be replaced with a reference to the number or other identification of the trip in a catalogue<sup>10)</sup> only if the catalogue contains all this information and was given over to the customer;
- c) the price of the trip including a time schedule of payments and the amount of an advance payment.

(2) Furthermore, the travel agreement must contain

- a) the way the customer is to exercise his claims following from violation of a legal duty of the travel agency;
- b) the sum of a compensation the customer must pay to the travel agency in case of withdrawal of the agreement in cases stipulated by this Act.

(3) The travel agreement must also contain

- a) data concerning the number and sum of additional payments if the trip includes also additional payments for services whose price is not included in the price of the trip;
- b) data concerning the location, category, level of equipment and main characteristics of accommodation if accommodation is a part of the trip;
- c) data concerning the kind, characteristic and category of a means of transport and concerning the route if transport is a part of the trip;
- d) data concerning the way and extent of catering if catering is a part of the trip;
- e) if realization of the trip is linked to a condition that a minimum number of customers will be achieved, the travel agreement must explicitly state this fact and specify the period until whose lapse the travel agency must inform in writing about cancellation of the trip due to the fact that the minimum number of customers was not achieved;
- f) if there are reasons for stipulation of requirements the participant of the trip must meet, the travel agreement must mention these requirements and the period during that the customer must inform that somebody else will take part in the trip instead of him if there are reasons for stipulation thereof.

§ 852c

(1) The parties may agree in a travel agreement that the travel agency may unilaterally increase the price of the trip if the way the increase of the price shall be calculated is exactly stipulated at the same time. However, the price of the trip mentioned in the travel agreement must not be unilaterally increased during 20 days before commencement of the trip.

(2) The price of the trip according to paragraph 1 may be increased only if it comes to increase of

a) the price of transport including fuel; or

b) payments connected with the transport, such as airport or harbor charges that are included in the price of the trip; or

c) exchange rate of the Czech Crown used in ascertaining the price of the trip by more than 10 %,

if this change occurs until the twenty-first day before commencement of the trip.

(3) A written notification about the increase of the price must be delivered to the customer no later than 21 days before commencement of the trip; otherwise, the travel agency shall not be entitled to payment of the difference in the price of the trip.

#### § 852d

(1) No later than within 7 days before commencement of the trip, the travel agency must provide the customer in writing with other detailed information about all facts important for the customer that is known to the travel agency unless it is already included in the travel agreement or in the catalogue given over to the customer, in particular about

a) more detailed specification of the data mentioned in § 852b para. 3 letter a) to d) that are known to the travel agency and are not included in the travel agreement or in the catalogue that was given over to the customer;

b) detailed data concerning possibility of a contact with a minor or with a representative of the travel agency in the place of the minor's stay in case of a trip whose participant is a minor;

c) name, address and telephone number of a person whom the customer at ease can contact during the trip with a request for help, in particular a local representative of the travel agency and address and telephone number of a diplomatic office;

d) information about the possibility to enter into an insurance in case any costs arise to the customer in connection with his withdrawal from the travel agreement unless this insurance is included in the price of the trip.

(2) If the travel agreement is concluded later than 7 days before the commencement of the trip, the travel agency must fulfil its duty according to paragraph 1 at the moment of conclusion of the travel agreement.

#### § 852e

(1) If the travel agency is forced for objective reasons to change the terms of the travel agreement before commencement of the trip, the travel agreement must offer the customer an amendment to the travel agreement. If the offered amendment to the travel agreement leads to change of the price of the trip, the offer must contain specification of the new price.

(2) If the travel agency offers an amendment to the travel agreement according to paragraph 1, the customer shall have the right to decide whether to agree to the amendment to the travel agreement or to withdraw from the travel agreement. Unless the customer withdraws from the travel agreement within a period specified by the travel agency that must not be shorter than 5 days from the delivery of the offer of the amendment to the travel agreement to the customer, the customer shall be presumed to agree to the amendment.

## § 852f

(1) Before commencement of the trip, the customer may notify the travel agency in writing that other person mentioned in the notification shall take part in the trip instead of the customer. On the day of delivery of the notification, the person mentioned therein shall become the customer. The notification must contain a declaration of the new customer that he agrees to the concluded travel agreement. If the travel agency stipulates the period and conditions according to § 852b para. 3 letter f), the customer may do so only within the specified period and the notification must also contain a declaration of the new customer that he meets all requirements for provision of the trip.

(2) The original and the new customer shall be jointly and severally liable for payment of the price of the trip and for coverage of costs if such costs arise to the travel agency in connection with the change of customer.

## § 852g

(1) The customer may withdraw from the travel agreement before commencement of the trip. The travel agency may withdraw from the travel agreement before commencement of the trip only due to cancellation of the trip or due to violation of a duty by the customer.

(2) If the customer withdrew from the travel agreement according to § 852e para. 2 or if the travel agency withdrew from the travel agreement due to cancellation of the trip before its commencement, the customer may demand that the travel agency provide him on the basis of a new travel agreement with another trip at least of the same quality corresponding to the original travel agreement if the travel agency is able to offer such trip.

(3) If the travel agreement according to paragraph 2 is concluded, payments realized on the basis of the original travel agreement shall be considered payments on the basis of the new travel agreement. If the price of the new trip is lower than already realized payments according to the preceding sentence, the travel agency must give the customer back this difference without undue delay.

(4) If the travel agency cancels the trip during less than 20 days before the term of its commencement, the travel agency must pay the customer a fine of 10 % of the price of the trip. The customer's right to compensation of damage shall not be affected by this rule.

(5) The travel agency may free itself of the liability for damage according to paragraph 4 or of the duty to pay the fine only if it proves that cancellation of the trip occurred

a) in accordance with § 852b para. 3 letter e);

b) due to an event that could not be averted and that the travel agency was not able to prevent even with all effort that can be reasonably demanded from it.

## § 852h

(1) If the customer withdrew for another reason than due to violation of a duty of the travel agency stipulated by the travel agreement or by this Act or if the travel agency withdraws from the agreement before commencement of the trip due to violation of a duty of the customer, the customer must pay the travel agency a compensation in the sum calculated according to § 852b para. 2 letter b) and the travel agency must give the customer back all it obtained from him for the purpose of coverage of the price of the trip according to the cancelled travel agreement.

(2) If the customer withdrew from the travel agreement due to violation of a duty of the travel agency stipulated by the travel agreement or by this Act and if no new travel agreement is concluded according to § 852g para. 2, the travel agency must without undue delay give the

customer back all it obtained from him for the purpose of coverage of the price of the trip according to the cancelled travel agreement; the customer shall not have to pay the travel agency a compensation. The customer's right to compensation of damage shall not be affected by this rule.

#### § 852i

(1) The travel agency shall be liable vis-à-vis the customer for violation of obligations following from the concluded travel agreement regardless of whether these obligations are to be performed by the travel agency or by another suppliers of travel services provided in the framework of the trip.

(2) Unless the travel agency fulfills its duties following from the travel agreement or from this Act duly and timely, the customer must assert his right with the travel agency without undue delay but no later than within three months after the end of the trip or, if the trip did not take place, after the day when the trip was to be ended according to the travel agreement; otherwise, the right shall become extinct.

(3) If conclusion of the travel agreement is mediated by another travel agency or by a travel office,<sup>11)</sup> the period according to paragraph 2 shall be kept if the customer did so duly and timely with the mediating travel agency or travel office.

-----  
<sup>11)</sup> § 3 of the Act No. 159/1999 Sb.

#### § 852j

(1) The travel agency may free itself from the liability for damage caused by withdrawing from the travel agreement according to § 852g para. 2 only if it proves that the trip was cancelled

a) in accordance with § 852b para. 3 letter e), or  
b) as a result of an event that could not be averted and that the travel agency was not able to avert even with all effort that can reasonably demanded from it.

(2) The travel agency may free itself from the liability for damage caused by a violation of a legal duty only if it proves that this damage was not caused by intention or negligence of its or of another suppliers of travel services provided in the framework of the trip and that the damage was caused by

a) the customer,  
b) a third person who is not connected with provision of the trip if this fact could not be expected or avoided; or  
c) an event that could not be averted and that could not be prevented even with all effort that can be demanded.

(3) If a promulgated international agreement binding upon the Czech Republic allows restriction of the sum of compensation for damage arisen from violation of an obligation from travel agreement and this restriction is mentioned in the travel agreement in accordance with this international agreement, the travel agency shall not have to compensate the damage it is liable for an the sum exceeding the restriction mentioned in the travel agreement.

#### § 852k

(1) In cases according to § 852j para. 2 letter b) and c), the travel agency must provide the customer at ease with a quick assistance.

(2) If after commencement of the trip the travel agency does not duly and timely provide

the customer with travel services or their essential part or learns that it will not be able to provide the customer duly and timely with all travel services or their essential part even if it undertook to it in the travel agreement, the travel agency must without undue delay against no payment take such measures so that the trip can go on.

(3) If continuation of the trip can not be assured otherwise than by means of travel services of lower quality than are those mentioned in the travel agreement, the travel agency must pay the customer the price difference.

(4) If the measures according to paragraph 2 can not be taken or if the customer does not accept them, the travel agency must without undue delay give the customer back the price difference. If transport is a part of the trip, the travel agency must provide the customer with a transport back to the place of departure or to another place of comeback to that the customer agreed including necessary accommodation and food. If the transport is carried out by another means of transport than by that is was to be carried out according to the travel agreement, the travel agency

a) must return the price difference if the transport was carried out at lower costs; or

b) cover the price difference on its own if the transport was carried out at higher costs.

## **PART NINE FINAL, INTERTEMPORAL AND REPEALING PROVISIONS**

### **CHAPTER ONE GENERAL PROVISIONS § 853**

Civil legal relationships that are explicitly regulated neither by this nor by another act shall be governed by the provisions of this Act regulating relationships that are closest to them in point of their content and purpose.

### **CHAPTER TWO INTERTEMPORAL AND REPEALING PROVISIONS TO THE REGULATION EFFECTIVE FROM APRIL 1, 1964 (ACT NO. 40/1964 Sb.) § 854**

Unless anything else is further stipulated, the provisions of this Act shall regulate also legal relationships that arose before April 1, 1964; however, rise of these relationships as well as claims that arose therefrom before April 4, 1964 shall be considered according to the hitherto regulation.

### **§ 855**

(1) After March 31, 1964, citizens who were proclaimed completely non-certifiable according to the hitherto regulation shall be considered deprived of their capacity to legal acts according to this Act.

(2) Citizens who were proclaimed partly non-certifiable according to the hitherto regulations shall go on being capable to legal acts in the scope laid down by the hitherto regulation unless the court decides on the scope of their capacity according to § 10 para. 2.

### **§ 856**

(1) Property communities between spouses that arose according to the hitherto regulation shall cease to exist on April 1, 1964. On this day, there shall arise a joint ownership of spouses to all that belongs to their joint ownership of spouses according to this Act.

(2) If the extinct property community included things that are not subject to personal ownership, the provisions on joint ownership of spouses shall adequately apply to them.

(3) If the Act No. 140/1961 Sb. (Criminal Act) stipulates that the verdict on confiscation of property shall result in extinction of the legal community of property, this term shall be deemed extinction of joint ownership of spouses After April 1, 1964.

#### § 857

If one spouse acquired a right to use a flat before April 1, 1964, on this day, there shall arise a right of joint use of the flat by the spouses. However, this right shall not arise if the spouses do not live with one another.

#### § 858

(1) If agreements on insurance of property were concluded before the effectivity of this Act in favor of the owner or holder of a policy, after April 1, 1964, the right to the benefit shall belong to the insured party (§ 355 para. 1 in wording of the Act No. 40/1964 Sb.); if death of the insured person is deemed the insurance event, the right to the benefit shall arise to the persons mentioned in § 372 in wording of the Act No. 40/1964 Sb..

(2) If the provision of § 61 of the Act No. 47/1956 Sb., on civil aviation, refers in case of insurance against consequences of liability to the provisions of § 58 to 60 of the same act, this reference shall be considered after April 1, 1964 reference to the provisions of § 427 to 431 in wording of the Act No. 40/1964 Sb.

#### § 859

(1) Succession shall be governed by the law valid on the day of the deceased person's death; however, if the will was drawn up before April 1, 1964, its validity shall be considered according to the hitherto regulation.

(2) On April 1, 1964, all restrictions following from trust substitution shall cease to exist.

(3) Unless an act stipulates otherwise, the survived spouse who lived with the deceased person at the moment of his death in a common household shall inherit apart from his or her share also arrears of the deceased person's remuneration for work and of repeating pensions up to the sum of one-month income.

#### § 860

Times and limitation periods that started running before April 1, 1964 shall be considered according to the hitherto regulation until their end.

#### § 861

As for the right to compensation for damage caused by intention or to right to returning of an unlawful property benefit gained by intention, the limitation period shall be ten years long and shall be reckoned from the day when the original period started running; this rule shall not apply to a right that had become statute-limited before April 1, 1964 according to the hitherto regulation.

§ 862

Rights and duties from pledges that arose before April 1, 1964 shall be governed by the provision of § 495 in wording of the Act No. 40/1964 Sb. unless they are regulated by special regulations. The same rule shall apply also to pledge arisen on the basis of an agreement.

§ 863

Property settlement of companies dissolved by the provision of § 563 para. 2 of the Act No. 141/1950 Sb. (Civil Code) shall go on being regulated by the regulations by that it has been governed so far.

§ 864

The following regulations shall be repealed:

1. Civil Code No. 141/1950 Sb. except for the provision of § 12 para. 2 if it regulates conclusion of labor agreements and § 22 and 352;
2. Act No. 126/1946 Sb., on regulation of agricultural tenancy relationships;
3. Act No. 139/1947 Sb., on division of left estate with agricultural enterprise and on prevention of disintegration of agricultural land;
4. Act No. 45/1948 Sb., amending the Act No. 139/1947 Sb., on division of left estate with agricultural enterprise and on prevention of disintegration of agricultural land;
5. Act No. 207/1948 Sb., on protection of tenants of agricultural enterprises and of tenants of agricultural lands;
6. Act No. 189/1950 Sb., on insurance agreement;
7. Act No. 63/1951 Sb., on liability for damage caused by traffic means;
8. Act No. 65/1951 Sb., on transfers of real estate property and on leases of agricultural and forest land;
9. the provision of § 18 para. 2 and § 20 of the Act No. 84/1952 Sb., on organization of monetary system;
10. the provisions of § 95 and 96 of the Act No. 115/1953 Sb., on copyright law;
11. the provisions of § 55 para. 2 letter a), § 58, 59 para. 1 and § 60 of the Act No. 47/1956 Sb., on civil aviation;
12. the provision of § 50 para. 6 of the Act No. 41/1957 Sb., on use of mineral wealth (Mining Act);
13. the provision of § 32 of the Act No. 150/1961 Sb., on compensations for job injuries and job sicknesses;
14. the Government's Decree No. 366/1940 Sb., on swimming pools and bathing places;
15. the Government's Decree No. 183/1947 Sb., delimitating areas of agricultural production;
16. the Government's Decree No. 53/1955 Sb., amending the Government's Decree No. 183/1947 Sb., delimitating areas of agricultural production;
17. the Decree of the Minister of Justice No. 157/1950 Sb., implementing several provisions of the Civil Code, as amended by the Decree of the Minister of Justice No. 37/1955 Sb.;
18. the Decree of the Minister of Justice No. 179/1950 Sb., on important reasons for termination of protected leases or to their cancellation without termination;
19. the Government's Ordinance No. 113/1956 Ú.l., on collection of rent arrears, except for the provisions of § 5 to 7;
20. the Government's Ordinance No. 211/1957 Ú.l., on carrying out of small modifications in flats;
21. the Annex to the Ordinance of the Ministry of Finance No. 157/1954 Ú.l., issuing



insurance terms of family pension insurance;

22. Annexes No. 1 to 11 of the Ordinance of the Ministry of Finance No. 237/1955 Ú.l., on insurance terms for insurance of property and persons concluded with the State Insurance Company;

23. the Ordinance of the Ministry of Finance No. 206/1957 Ú.l., on saving books;

24. Ordinance of the Ministry of Finance No. 33/1958 Ú.l., on insurance terms for insurance of property and persons concluded with the State Insurance Company;

25. the provisions of Art. 22 to 25 of the Ordinance of the Ministry of Internal Trade No. 125/1959 Ú.l., on fundamental regulations of operation of sales rooms.

CHAPTER THREE  
INTERTEMPORAL PROVISIONS TO THE REGULATION  
EFFECTIVE FROM APRIL 1, 1983  
(ACT NO. 131/1982 Sb.)  
§ 865

(1) Unless anything else is further stipulated, the provisions of this Act shall apply also to legal relationships that arose from April 1, 1964, to April 1, 1983.

(2) Legal relationships from a joint ownership of spouses that became extinct from April 1, 1964, to April 1, 1983, shall be governed by § 149 para. 4 unless a settlement of the joint ownership was done on the basis of an agreement concluded within three years after April 1, 1983 or on the basis of a decision of court upon a petition filed within three years after April 1, 1983.

(3) The period mentioned in § 135a in wording of the Act No. 131/1982 Sb., shall include also the period during that the citizen or his legal ancestor held the thing in an uninterrupted possession (§ 135a para. 1) or uninterruptedly exercised a right corresponding to an easement (§ 135a para. 2) before April 1, 1983; however, this period shall not end before the lapse of one year after this day.

(4) As for the right to appeal to nullity and voidance of a legal act for the reason mentioned in § 40a in wording of the Act No. 131/1982 Sb., that occurred before April 1, 1983, the limitation period shall not end before the lapse of three years after this day.

(5) As for the right to compensation of damage or for the right to returning of an unlawful property benefit, the limitation period shall be two years long reckoned from the day when the original period started running; this rule shall not apply to a right whose limitation period according to the hitherto regulation has already elapsed.

(6) Rights and duties from easements that arose before April 1, 1964 shall be governed analogously by the provisions of § 135b and § 135c para. 3 to 7 in wording of the Act No. 131/1982 Sb.

§ 866

Increase of the basic sum that must not be deducted from the liable party's monthly wage in enforcement of a decision and determination of the limit above that the wage is deductible without limits that occur after April 1, 1983 shall not apply to agreements on deductions from wage and other income (§ 57 in wording of the Act No. 40/1964 Sb.) concluded before this day.

CHAPTER FOUR  
INTERTEMPORAL PROVISIONS TO THE REGULATION  
EFFECTIVE FROM JANUARY 1, 1989

(ACT NO. 188/1988 Sb.)  
§ 867

The claim to compensation for loss of pension that arose before January 1, 1989, shall be considered according to the hitherto regulations.

CHAPTER FIVE  
INTERTEMPORAL PROVISIONS TO THE REGULATION  
EFFECTIVE FROM JANUARY 1, 1992  
(ACT NO. 509/1991 Sb.)  
§ 868

Unless anything else is further stipulated, the provisions of this Act shall apply also to legal relationships that arose before January 1, 1992; however, rise of these relationships as well as claims arisen therefrom before January 1, 1992 shall be considered according to the hitherto regulation.

§ 869

Contest shall be admissible against legal acts done during the last three years before the effectivity of this Act if the reason for the contest existed even after the effectivity of this Act; however, this right must be exercised within one year after the effectivity of this Act or it shall become extinct.

§ 870

Times and limitation periods that started running before the effectivity of this Act shall be considered according to the hitherto regulation until their end.

§ 871

(1) Right of personal use of a flat and right of use of other housing rooms and of rooms not serving to living that arose according to the hitherto regulation and that exist on the day of effectivity of this Act shall be transformed to lease on the day of effectivity of this Act. Joint use of a flat and joint use of a flat by spouses shall be transformed to a joint lease.

(2) The right of use of a part of flat shall be transformed to sub-lease; it can not be terminated within one year after the effectivity of this Act.

(3) This rule shall analogously apply to personal use of other housing rooms and of rooms not serving to living.

(4) Personal use of flats serving to a permanent accommodation of workers of an organization shall be transformed to lease of a service flat if these flats meets the requirements stipulated by an act for service flats; unless these requirements are met, such personal use shall be transformed to lease.

§ 872

(1) Right of personal use of a land that arose according to the hitherto regulation and that exists on the day of effectivity of this Act shall be transformed as of the day of effectivity of this Act to ownership of an individual. The provision of § 8 para. 1 of the Act No. 229/1991 Sb., on regulation of ownership relationships to land and other agricultural property shall not

be affected by this rule.

(2) If more citizens acquired at the same time a right of personal use of the same land that is not built up (joint users), these citizens shall as of the day of effectivity of this Act become co-owners with equal shares.

(3) If more citizens acquired at the same time a right of the same land that is built up (joint users of a land that is built up), these citizens shall become as of the effectivity of this Act co-owners with shares whose size is the same as is the size of their co-ownership shares of the building built on the land in the joint personal use. In case of doubts, the size of co-ownership shares shall be determined by an agreement of the co-owners and if no agreement is concluded, by the court upon petition of any of them.

(4) If the right of personal use of a land whether or not built up was acquired by spouses, they shall as of the day of effectivity of this Act become joint owners of the land if their joint ownership exists; if it became extinct, they shall become co-owners with the same share.

(5) If a citizen acquired before the effectivity of this Act a right to conclude an agreement on personal use of a land and if the agreement was not concluded until the effectivity of this Act or was not registered by a final and conclusive decision of a state notary, the entitled person shall acquire a right to conclusion of a purchase agreement concerning the land that was subject to the decision allotting it to the personal use. Unless the entitled person exercised this right within one year as of the effectivity of this Act, the right shall become extinct. Unless the purchase agreement is concluded, the right to surrendering of unjustified enrichment shall not be affected (§ 451 ff.).

(6) As for positive prescription of ownership to a land according to this Act in cases where the hitherto regulations allowed only acquisition of a right to conclusion of an agreement on personal use of land, the entitled person may invoke the period during that his legal ancestor held the land in an uninterrupted possession even before the effectivity of this Act.

(7) If a citizen (citizens) acquired personal ownership of a flat under conditions mentioned in the Act No. 52/1966 Sb., on personal ownership of flats, as amended by the Act No. 30/1978 Sb., the personal ownership shall be transformed into ownership of an individual (individuals) as of the effectivity of this Act; the right of joint personal use of a land on that a living house with the flat (flats) owned by the citizen (citizens) is built shall be transformed as of the effectivity of this Act into a co-ownership of individuals.

(8) Under conditions laid down in the Act No. 52/1966 Sb., on personal ownership of flats, as amended by the Act No. 30/1978 Sb., also legal entities may acquire ownership of flats and non-residential premises as of the effectivity of this Act.

#### § 873

Succession shall be governed by the law valid on the day of the deceased person's death. However, if the will was drawn up before the effectivity of this Act, its validity shall be considered according to the hitherto regulations. The same rule shall apply to validity of a disinheritance.

#### § 874

Rights and duties from restriction of transfer of a real estate property that arose before the effectivity of this Act shall be governed by the hitherto regulations.

#### § 875

(1) Professional associations that arose according to § 360b of the Economic Code, professional organizations that arose according to § 42 of the Act No. 162/1990 Sb., on agricultural co-operatives system and professional organizations and joint professional associations that arose according to § 35 and 36 of the Act no. 176/1990 Sb., on housing, consumer, production and other co-operatives system shall be considered associations according to § 20f of this Act. These associations must have themselves registered according to § 20i within six months after the day of effectivity of this Act.

(2) The hitherto donations shall be considered donations according to n§ 20b to 20e of this Act.

#### § 876

(1) Relationships of permanent use according to § 70 of the Act No. 109/1964 Sb., Economic Code, shall be considered according to the hitherto regulation until the moment of issuance of a special act.

(2) Economic agreements on temporary use of a property against payment according to § 348 of the Economic Code shall be transformed into lease agreements as of the day of effectivity of this Act. If the use of property according to § 348 of the Economic Code is concluded against no payment, it shall be transformed into a commodatum agreement as of the day of effectivity of this Act.

#### § 877

(1) Prices, commissions and other money performances that are subject to the regulation of this Act and to that a generally binding legal regulation of prices applies shall be considered prices according to this regulation.

(2) If this Act uses the term "generally binding legal regulation on prices", this term shall be considered the Act No. 526/1990 Sb., on prices.

#### § 878

The following regulations shall be repealed:

1. the provision of § 22 of the Act No. 141/1950 Sb. (Civil Code);
2. Act No. 41/1964 Sb., on flat economy;
3. the provision of § 4, 6, 9 paragraph 2 and § 10 paragraph 2 of the Act No. 52/1966 Sb., on personal use of flats, as amended by the Act No. 30/1978 Sb.

### CHAPTER SIX

#### § 879

(1) Ownership relations to real estate property located only in the territory on the Czech Republic or the Slovak Republic (such as the so called settlers' relationships, urbariates and compossessorates) shall be regulated by an act of the national council competent republic.

(2) Acts of national councils shall stipulate who and in what was shall assure housing compensations (compensatory flat and compensatory accommodation).

#### § 879a

More detailed regulations implementing the Civil Code shall be issued by the competent ministries and other central authorities of state administration. The Government of the Czech

Republic and the Government of the Slovak Republic may issue more detailed regulations implementing the Civil Code as for issues falling within the competence of the Czech Republic and within the competence of the Slovak Republic.

CHAPTER SEVEN  
INTERTEMPORAL PROVISIONS TO THE REGULATION  
EFFECTIVE FROM JANUARY 1, 1995  
(ACT NO. 267/1994 Sb.)  
§ 879b

(1) Agreements on lease of flats concluded validly in another than written form shall go on being valid.

(2) The provision of § 712 para. 2 fourth sentence shall apply to lease agreements concluded after the effectivity of this Act.

§ 880  
**Effectivity of the Act**

This Code shall become effective on April 1, 1964.